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MANAGING YOUR BUSINESS



ILLUSTRATION: PAUL SALMON

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PHOTO: © CHARLES THURCHER—BLACK STAR

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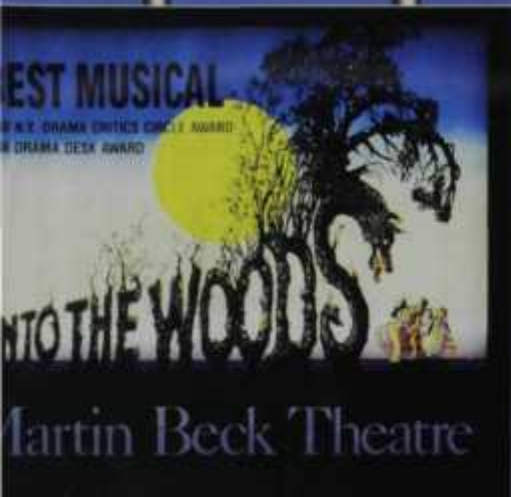
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Letters

Women At Work

I liked the May cover story, "The Age Of The Woman Entrepreneur." I marvel at S. Diane Graham, who's back at work five days after the birth of her child. Some mommy track!

Robert Sohngen
Langhorne, Pa.

I beg to differ with Fran Jabara, direc-



PHOTO: CHUCK KREYSE-BLACK STAR

Five days after giving birth to Cassie Robertson, entrepreneur S. Diane Graham returned to the office.

tor of the Center for Entrepreneurship at Wichita State, who states that "I really do not believe that women are discriminated against in [obtaining] capital."

When I set out to start my chiropractic practice, a man commended me highly for having one of the most complete portfolios, including detailed projections, short- and long-term goals, and marketing strategies. There wasn't a woman more excited than myself about opening her doors to serve.

Two weeks later, though, the same man informed me that I was denied a loan because he felt that my business plans "were probably formulated on a whim" and that I would "most likely marry another doctor in a couple of years and have his babies."

Needless to say, it was difficult to maintain my self-esteem and to remain optimistic about the future. Fortunately I had a loving and supportive family, and today I am celebrating my second year in practice. Many women aren't as fortunate.

Diana C. Galish-Frasier, D.C.
Schenectady, N.Y.

I have become a real fan of your magazine and have especially enjoyed your recent articles "Six Ways To Be 'Family-Friendly'" [March] and "The Age Of The Woman Entrepreneur."

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I appreciate that *Nation's Business* brings some balance to the discussion of women and work.

Christine S. Donovan
Coronado, Calif.

The More, The Better

Your April cover story, "Would You Hire Them?" was commendable. Business is overdue in recognizing the high cost of our poor educational system. Now that we face a shortage of skilled personnel, we must recognize the damage that has resulted from allowing schooling to become a low priority in this country.

I hope that you will continue to stress this topic in future editions. The more attention it gets, the better.

Kenneth S. Kaiserman
Philadelphia

In several places recently, including master's-level college classrooms, I have heard about business's need to take a leading role in education.

Your April cover story showed me several new areas where business can assist. However, it reminded me of my workplace. If employee X can't or won't do the job that he is assigned and paid to do, then employee Z will be asked or told to do his duties.

I liked the article so much that I sent a copy to the local school board.

M.K. Heintz
Manchester, Tenn.

A Drop In The Bucket?

Donald C. Bacon's article "Nonprofit Groups: An Unfair Edge?" [April] states that the Internal Revenue Service collected \$120 million in unrelated-business-income tax in 1987. This seems like only a drop in the bucket compared with the \$300 billion in revenue that the nonprofit organizations generated the same year.

This \$120 million was collected from 27,000 of the 866,000 exempt organizations on the IRS master list, which omits religious categories.

I can understand the exemption for religious organizations, but what about all the rest?

Just because a company is classified as nonprofit doesn't mean that it doesn't have to file a tax return. The IRS is quick to jump on the public for late or missing tax returns; why aren't they just as quick to catch the nonprofit groups?

Sean Jamison
Moscow, Idaho

Architectural Embellishment

With regard to Glen Macnow's article "Buffalo's Rich Baseball Legacy" [February], I would like to thank you on behalf of Hellmuth, Obata & Kassabaum Inc. for the things you said about our design effort in Buffalo (we are the architect of record for Pilot Field). However, I do need to make you aware of an inaccuracy.

The article says that Pilot Field was "designed by the same architectural firm that built Royals Stadium in Kansas City." For the record, HOK was not involved in any way, shape, or form with the design or construction of Royals Stadium. HOK has been the architect for several additions at Royals Stadium, as well as for the replacement of the artificial-turf surface. Perhaps this is where the confusion originated.

Joseph E. Spear
Senior Vice President
Sports Facilities Group
Hellmuth, Obata &
Kassabaum Inc.
Kansas City, Mo.

Kassabaum Inc.
Kansas City, Mo.

Raising The Minimum-Wage Issue

As a small-business owner who supports a much-needed increase in the minimum

wage, I am embarrassed by the logic the business community uses to assail the proposal.

When you argue that an increase in the minimum wage will cost many workers their jobs, you are relying on the predictions of economists who base their dire warnings on little else than crystal-ball gazing.

There is an important reason you and other business organizations don't cite



ILLUSTRATION: SAM WARD

historical precedents when it comes to arguing against an increase in the minimum wage.

The only time a rise in the minimum wage was followed by a decrease in the number of Americans employed in the work force was in the 1930s. And I suspect the decline in the number of workers then was the result of more powerful economic pressures than the increase in the minimum wage.

I am really surprised our Republican lawmakers are not out in the forefront of the fight to raise the minimum wage. After all, the last increase in the minimum wage (1981) was followed by what we have been told is the longest period of sustained economic growth in the nation's history. Now there is a historical precedent!

*Don Ringler
Stevensville, Mich.*

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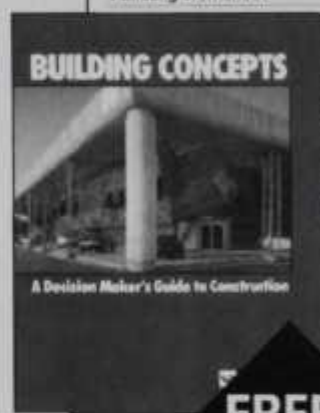
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There are now 2,300 local United Way organizations in the U.S. In 1987, those organizations raised more than \$2.6 billion to meet the health and human-service needs of America today.

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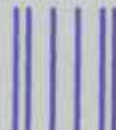
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In The Beginning

George Romney's efforts to increase the business leadership for Volunteer Centers around the country will go a long way toward helping to build a stronger national network of volunteers to work on community problems ["An Untapped Resource," March]. We're proud that United Ways run over 126 local volunteer centers and provide over 30 percent of the operating funds for all volunteer centers across the country.

In the opening paragraph of your article, though, there was inaccurate information presented about the historic origins of United Way. While Romney was instrumental in helping establish the United Foundation in Detroit, that city was not the site of the first United Way campaign.

The first campaign took place in Denver, in 1887. Two ministers, a Catholic priest, a rabbi, and a female philanthropist organized a city-wide fund-raising effort to help the poor and needy left in the aftermath of the rush for silver and gold. Their work was a dramatic leap forward in meeting the health and human-service needs of Denver's citizens.

There are now 2,300 local United Way organizations in the U.S. In 1987, those organizations raised more than \$2.6 billion to meet the health and human-service needs of America today.

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Small-Business Update

By Donald C. Bacon

Section 89 Among House GOP Targets

House Minority Whip Newt Gingrich says that major reform or outright repeal of Section 89—the complex benefits law—and enactment of a lower tax rate for capital gains are two major goals of his GOP strategy team.

Addressing a business group, Gingrich said that House Republicans are also reviewing the controversial catastrophic-health-insurance plan adopted last year. They want to determine whether to advocate repeal of the law, which has generated extensive controversy because of the heavy new taxes it imposed on the elderly to finance the new insurance.

Gingrich, whose district is near Atlanta, assumed his leadership post recently in what was seen as a major victory for a GOP faction that had long advocated head-on confrontation, rather than accommodation, with the Democratic majority.

The Gingrich approach was evident in his discussion of party strategy on Section 89, the massively complex law designed to bar companies from discriminating in providing health and other benefits.

Business is virtually unanimous in assailing the law as unworkable and urging its repeal.

The major opponent of repeal is Rep. Dan Rostenkowski, D-Ill., chairman of the House Ways and Means Committee. The committee has jurisdiction over Section 89, which is part of the tax-reform law passed in 1986. Rostenkowski has agreed only to the possibility of modifying the benefits law.

"We think we ought to be bargaining with Rostenkowski from a position of us being strong, not him being strong," Gingrich said in an appearance before The Breakfast Bunch, an informal organization of Washington-based corporate representatives associated with the legislative-action department of the U.S. Chamber of Commerce.

Urging his business audience to rally behind the drive against Section 89, Gingrich said:

"Our goal here is to have enough



PHOTO: T. MICHAEL KEZA

Rep. Newt Gingrich: Section 89 should be overhauled or repealed.

groups that are willing to pledge that they will help us ... so we can go to Rostenkowski and say, 'Look, all these groups are willing to help us ... your choice is to write the kind of thorough, absolutely solid reform that's real or we are going to beat you and introduce a motion of repeal.'"

On the capital-gains rate, the House leader declared that "there is no excuse except left-wing theology for not passing capital-gains legislation. ... only the left's absolute psychological pathology about those who create wealth has stopped it."

(For a detailed report on legislation to reduce the capital-gains rate, see the story on Page 56.)

While his GOP team has not developed a position on the new law on health insurance for catastrophic costs, Gingrich said he personally favors repeal: "I think the issue is a time bomb out there. I think we would be very foolish not to get ahead of that curve."

Defense Suppliers Gear Up For "Paperless" Pentagon

An estimated 50,000 small as well as large businesses will be affected by strict new Defense Department rules requiring weapons contractors and subcontractors to begin submitting all proposals and work documents to the department in electronic form by 1990.

Currently, most technical documents are supplied to the Pentagon on paper. The new requirement, known as the Computer-Aided Acquisition and Logistical Support program (CALS), is intended as a step toward the eventual elimination of paper in the military-contracting process.

Although implementing the conversion will cost the Pentagon and its contractors an estimated \$10 billion over the next seven years, the program could save taxpayers billions of dollars annually by reducing the storage and management of paper generated in the current weapons-procurement process.

Some prime contractors may require subcontractors, which include many small concerns, to begin delivering documents in CALS-compliant form before they are required to do so themselves. Defense-industry observers also note that since the rules apply directly to prime contractors only, it may be possible for small suppliers to arrange with their primes to deliver documents in other electronic formats.

Experts believe the new standards could spread beyond the Defense Department and its contractors. The Commerce Department already has proposed certain CALS specifications as Federal Information Processing Standards for use throughout the federal government. Other aspects of CALS could become "a standard for publishing technology in general," says Interleaf Inc., a Cambridge, Mass., software and consulting firm.

"Incomprehensible" IRS Penalties

The Internal Revenue Service "appears to be penalizing taxpayers for not comprehending the incomprehensible," says the accounting firm Ernst & Whinney.

Noting that the number of civil penal-

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ABOVE AND BEYOND®

SMALL-BUSINESS UPDATE

Customers make menu selections at this Arby's in Denver simply by touching computer display.

ties provided in the tax code went from 13 in 1954 to 150 in a 1986 "simplification," the company expressed concern that the penalties have become entrenched as revenue sources rather than as inducements for compliance with the tax law.

In 1978, about 15 million civil penalties generated \$1.3 billion; by 1987, the number of penalties had doubled, but the amount of money they brought in had increased nearly 11 times, to \$14 billion.

Thus, while the IRS has looked into ways to reform the penalty system, Ernst & Whinney does not foresee corrective action soon.

"Unfortunately," the accounting firm says in its newsletter, *Washington Tax Reporter*, "the current U.S. budget deficit leaves little likelihood that Congress will undertake any action that would substantially reduce the large revenue stream generated by the tax-penalty system."

Fast Food Gets Faster With Orders By Computer

In a test that could have great significance for retailers generally, two fast-food outlets in Denver are testing a high-tech way to order products.

Customers of two Arby's restaurants can enter their own orders by touching their selections on a computer display.

The new electronic order-entry system seems not only to save the customer time but also to increase efficiency and reduce costs for the employer, ac-



PHOTO: © MCALLISTER OF DENVER

cording to Management Information Support Inc., of Denver. MIS will market the equipment, which IBM Corp. will build and install, beginning in late 1989.

MIS has been testing the system, Touch 2000, for several months at the two restaurants. "These tests have shown very high customer acceptance," said MIS President Ray Mueller.

Customers can place their own orders by using a color touch screen or by speaking to a cashier who can enter information through a similar device behind the counter.

Food orders are displayed instantly—

in English, Spanish, or other languages—on monitors in the kitchen area and at cashier stations.

The cashier, largely freed from taking orders, can concentrate on filling orders and receiving payment, according to the Arby's test.

"This allows one cashier to service two customers and results in a 25- to 30-percent labor savings at the front counter," MIS noted.

Look To Your Employees For Key To Greatness, Author Says

What does it take to get good people to do great work at your company?

Two things, according to Charles A. Garfield, author of *Peak Performance: Strategies and Insights of America's Most Productive People* (Morrow, 1986).

Speaking at a Small Business Week event at the U.S. Chamber of Commerce, in Washington, Garfield said the first is a defined company mission, and the second is a concentration on people by hiring, training, and rewarding peak performers.

Employees need to know what your company stands for, Garfield said, citing the example of Alvin L. Burger, who, until he sold it, owned a highly successful Miami company, Bugs Burger Bug Killers.

Burger used to tell people that he was not in the pest "control" business; he was in the business of pest elimination, and he gave his customers an absolute guarantee that pests would be exterminated.

Garfield recounted the story of one employee who said he was motivated by Burger's commitment to excellent service. He had worked for other companies that were satisfied with reducing the bugs to 5 or 10 percent of their previous levels because the customers would never know the bugs had not been eliminated entirely. Garfield reported that the employee said, "How was I supposed to feel... knowing that the real mission of [his previous employers] was 'we cut corners'?"

Garfield urged small-business owners to make sure that peak performers do the hiring because "they're most likely to hire other peak performers." He advised them to set higher expectations and offer higher pay than their competitors.

But, he added, "Don't say, 'Work hard, bust your behind, give us your lifeblood, and someday in the distant future you will be rewarded.'" ■

This Month's NB TIPS

The 1989 edition of the U.S. Chamber of Commerce's *Analysis of Workers Compensation Laws* is a highly useful handbook for business people seeking an accessible history and overview of state and federal compensation statutes. Charts provide quick comparisons of specific provisions of the laws. Major sections deal with the laws' coverage, benefits, and administration. Single copies are priced at \$15; bulk rates are available.

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Potential and current business owners seeking management, financial, or procurement information can find out about assistance programs in their states by consulting *The States and Small Business*, a directory of programs and activities.

This helpful volume, which was prepared by the Small Business Administration's Office of Advocacy, may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9325; (202) 783-3238. Ask for document No. 045-000-00257-8.



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PEOPLE

Making It

Taming Western real estate, lending a hand to the handicapped, savoring a taste of the old country.

King Of The Mild Frontier

If you ever work with a uniquely gifted business leader, you may find the experience a mixed blessing. On the one hand, that leader's example may spur you to significant accomplishments of your own. On the other hand, you may feel frustrated because you don't think your accomplishments measure up to those of your tutor.

That, more or less, is the story of Fess Parker and Walt Disney.

Thirty-five years ago, Disney was casting the role of Davy Crockett for his new TV show. He was considering James Arness (who later became Matt Dillon of "Gunsmoke"), when his eye was caught by a strapping young actor from Texas in a science-fiction film called "Them." Parker got the part.

He appeared as Davy only three times in the 1954-55 TV season, but he made such an impact that he became

the center of a national craze. "The Ballad of Davy Crockett" rode at the top of the hit parade for 13 weeks, and coonskin caps became a sizzling-hot commodity. In the 1955-56 season, Parker played Davy for two more shows, and then he went on to star in several Disney films, including "Old Yeller." He then left Disney and starred in "Daniel Boone" on TV from 1964 to 1970.

Parker co-produced "Daniel Boone," and by the time that show got under way he was already involved in business deals of other kinds. Starting in 1961, he edged into development in the Santa Barbara, Calif., area, building three mobile-home parks and buying and selling other commercial properties.

Santa Barbara, a city of about 85,000, is only about an hour's drive northwest of Los Angeles, but it is worlds removed from the big city's smog and traffic. It has a Mediterranean climate and, some would say, city politics that can be as turbulent as any Mediterranean municipality's. In the late '70s, Parker collided with city activists when

he bought some land on the waterfront and tried to win approval for a resort hotel. The struggle lasted for years, culminating in a 1985 referendum in which Santa Barbara voters gave Parker's plans—which he had heavily revised to meet environmental concerns—approval by almost 3 to 1.

Fess Parker's Red Lion Inn, a \$70-million structure with 360 rooms, opened in February 1987; Parker is half owner with the Red Lion chain. Now he hopes to build a subdued retail development on an adjoining parcel.

So, at 63, Parker has many reasons for satisfaction. His hair is silver now, but he is still instantly recognizable as the buckskinned frontiersman who killed him a b'ar when he was only 3. "I feel good," he says. "I take no medication, I have no aches and pains. I'm very fortunate."

He is remembered fondly by a tremendous public (and does not try to conceal his delight at being the object of so much affection). He has made the difficult transition from TV star to highly successful businessman. But

PHOTOS: (INSET) SHOOTING STAR (1954); T. MICHAEL KEZA



Remembered fondly by millions from his days as Davy Crockett, Fess Parker today is a Santa Barbara, Calif., businessman who owns half of this \$70 million hotel.



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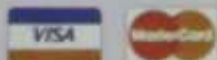
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Making It

PEOPLE

King Of The Mild Frontier

there's always the thought of Walt Disney, and all that he accomplished.

"I was the only adult [actor] that he ever put under contract," Parker says. "That's probably the only distinction I care about." He recalls watching as Disney "became fascinated with real estate" (Disney's first theme park, Disneyland, opened in July 1955, at the height of the Crockett phenomenon). "Had he lived, Walt Disney World would have been, I think, many times more than it is. His instincts had grown apace with his success, and we lost a great deal when he wasn't able to go forward."

And, although Parker insists that "I am not a businessman or even a developer," he says that "I do have some talent that comes from the exposure to Walt Disney and watching that unfold. I have a good sense of how architecture and land can be blended," Parker was

deeply involved in the design of his hotel, and he longs to leave his mark on the land in a "grand project"—a project worthy of a Disney. "I do dearly love the process of working with the land in a creative sense," he says. "It's a late passion."

Twice, he almost got a Disneyland-style theme park off the ground—once in Kentucky, and then in northern California. Two years ago, he optioned \$50 million worth of land in the Coachella Valley, the desert region east of Los Angeles that is home to Palm Springs.

"I wanted to build four 1,500-room hotels, five golf courses, a shopping area—not a shopping center for vacuum cleaners, but high-end crystal, glass, arts, and crafts," he says. "I wanted to build an exposition center. I wanted those four hotels to be primarily rooms, and I wanted to have the restaurants and nightclubs that a free-standing hotel cannot support. No cars would come into this complex; you would come to a certain point and be delivered. That would screen out the casual visitor, who would have to pay a

fee simply to come in." Just as in a theme park.

Parker talked with large insurance companies about financing his project, but he had to "walk away from that" because a somewhat similar project had too big a head start.

And yet, he still dreams big: "I would like to design a complete new city, and I know of a location in Southern California that has every reason to succeed. I have the concept, I have the vision for it, but I don't have the funds for it. I talk about it; somebody may take me up on it. But I don't really expect them to."

He is, instead, thinking in more limited but more concrete terms. He has a 2,600-acre cattle ranch near Santa Barbara, and he thinks it could be developed into a thriving winery. "I want to do my part to help make Santa Barbara County a Napa Valley," he says.

"Unfortunately, I'm just going to live a certain amount of time. I just hope that I can leave some solid assets to my children to play with—I mean to work. I don't mean to play with."

—Michael Barrier

Fingers Of Speech

A hearing-impaired woman gives birth to her first child at a hospital in Alexandria, Va. With her is a sign-language interpreter, who makes certain that the young woman and the medical staff understand each other during the crucial hours of labor and delivery.

A Washington, D.C., woman receives a call notifying her that her daughter, a deaf 17-year-old, has been hit by a car. The mother's anxiety is magnified by fear that her daughter will not be able to communicate with the medical team. But when she arrives at the hospital, a sign-language interpreter is already in the treatment room with the injured teenager.

In both instances, the interpreter was supplied by Sign Language Associates, a Silver Spring, Md., firm specializing in communication services for the hearing-impaired in the Washington area. But SLA does not limit its services to dramatic hospital scenes.

The brainchild of Janet Bailey, once an aspiring actress, SLA provides interpreters for virtually any occasion: court appearances, business meetings, political rallies, even nightclub performances. One SLA interpreter found herself accompanying a group of hearing-impaired students on a slaughterhouse tour and having to explain the finer points of one cow's swift demise.

"I was sort of fated to do this," Bai-



Janet Bailey of Sign Language Associates interprets the words of Sen. Edward M. Kennedy during a Senate subcommittee hearing on legislation affecting the deaf.

ley, 40, says of her unusual business career. As a small child, she learned the sign-language alphabet from her mother, who had once worked briefly at a school for the deaf. In junior high school, she and a boyfriend, the son of a deaf man, had fun communicating with each other by finger spelling.

When she went to Huron College in Huron, S.D., to study theater, she spent a six-week practicum working with

deaf children. Still she did not see the pattern.

But after she married and had two children, she and her family lived in Silver Spring in an apartment across the hall from a family with a deaf daughter. Bailey used her rusty finger-spelling skills to communicate with the girl and finally realized that she was really interested in the deaf.

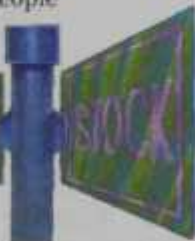
She began studying sign language at

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Making It

Fingers Of Speech

Washington's Gallaudet University, the nation's only university specifically for the deaf. After working briefly at the National Association of the Deaf and then spending six years in television and public-relations jobs at Gallaudet, she became one of about 10 full-time free-lance interpreters of sign language in Washington.

Very quickly, she saw that each interpreter had his or her own inefficient little enterprise and was dependent on an answering machine to get new assignments. The lack of a system was also unsatisfactory to clients, who had to go down a list of interpreters, calling each one until they found someone who was available. "I realized this was no way to run a business," Bailey says.

Bailey convinced seven other interpreters to join her in creating a single, efficient business, and by 1982, SLA was under way. The partners' first and only "advertising" was to put a message on each of their answering machines directing callers to dial the answering service they had hired to handle all their calls. "One of us would collect the calls and divvy up the jobs," says Bailey.

Once clients realized they had to make only one call to find an interpreter, she says, SLA was deluged.

SLA now has more than 20 full- and part-time employees and 100 free-lance contractors. It has grown to over \$1 million in annual revenues and more than 600 clients, including local and federal government agencies, nonprofit organizations, and businesses. For example, Hewlett Packard's regional sales headquarters in Rockville, Md., brings in SLA interpreters to "sign" business meetings and other special events for its two hearing-impaired employees.

The basic cost for SLA services is \$60 for up to two hours and \$25 per hour thereafter.

"We never expected the growth that we've experienced," says Bailey, who is now majority stockholder and president of the firm. She points out that Washington may be an exceptional market—Gallaudet attracts a great number of the hearing-impaired to the area, and the federal government is a major employer of the deaf.

Bailey's theatrical training has not gone to waste. She has interpreted performances in nearly every theater in Washington. And sign language itself calls on the skills of the thespian. Says Bailey: "It's one more way to express yourself, and it's just so beautiful."

—Sharon Nelton

PEOPLE



PHOTO © RICHARD GERR

Liquid Gold

Late last year, Mike Smolyansky was walking through the new plant in Skokie, Ill., just north of Chicago, where his dairy-products company, Lifeway Foods, would start production in a few weeks. The building was twice as large as Lifeway's old plant, and Lifeway was moving in with no debt except the mortgage on the building itself. But Smolyansky had one regret.

"I came to this country too late," he said. "I came 12 years ago. If I'd come 20 years ago, I'd probably have five plants like this."

It is, however, remarkable that Smolyansky, 42, got here at all. He is a Russian-born Jew; he and his wife and infant daughter were allowed to emigrate during a thaw in U.S.-Soviet relations in the mid-1970s. Now, through Lifeway Foods, he is bringing a bit of Russia to the U.S.

Lifeway's principal product is kefir, a thick, slightly effervescent, milk-based drink that resembles a liquid yogurt. Like yogurt, Lifeway's kefir comes in plain and fruit flavors; it sells at retail for around \$2 a quart. Still little known here, kefir is common in eastern Europe and the Middle East.

Smolyansky founded Lifeway in February 1986 and took it public two years later. With the October 1987 stock-market drop still fresh in investors' memories, the offering brought in little more than the \$600,000 that Smolyansky had set as a minimum.

That turned out to be enough, however. Trained as a chemical engineer in the Soviet Union, Smolyansky worked in a Chicago machine shop before going



In Lifeway Foods' plant at Skokie, Ill., Mike Smolyansky produces kefir, a dairy drink that resembles liquid yogurt, and farmer's cheese.

into business for himself. In equipping his new plant, he says, "I became the general contractor. On everything, we saved money."

Its limited capacity at the old plant held Lifeway's sales last year to less than \$800,000, but Smolyansky says that sales this year will be more than double that, with a profit of around 20 percent of sales.

The big question remaining is whether Lifeway can convert the American public as a whole to a drink that is still an ethnic specialty.

Smolyansky is glad simply to have the chance to try.

"I speak with an accent," he says. "I probably will never get rid of it. But still, if I were to go to France, I would always be considered a foreigner, no matter how well I spoke French. In this country, people will say, okay, you speak with an accent, but you are an American. You have hundreds and hundreds of different nationalities. Whoever loves to work and uses their brains, you not only can make money, you can really show what you're capable of."

—Michael Barrier

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SEE YOU IN COURT

Employee suits against employers are turning the workplace into a legal combat zone.

By Donald C. Bacon

A federal jury in Los Angeles ordered Von's Markets to pay \$12.3 million to a black truck driver who sued his employer, claiming he had suffered physical and emotional problems as a result of discriminatory acts by his supervisors.

The Pennzoil Co. fired one of its employees after investigating a complaint that he had sexually harassed a young female worker, but a New Mexico jury later found that "Pennzoil did not act on reasonable grounds" in the termination. The jury awarded the fired employee \$500,000 in compensatory damages.

After nearly a decade of litigation, Harris Trust and Savings Bank of Chicago agreed to pay \$14 million in back wages to settle a discrimination suit filed in behalf of women and minority employees. Chairman B. Kenneth West steadfastly rejected the discrimination allegation, saying, "We simply wanted to end the drain on our resources, both physical and emotional."

Those aren't isolated cases. Costly legal combat pitting employees and former employees against employers is expanding rapidly as workers in unprecedented numbers look to the courts to resolve all manner of workplace controversies—from job security to parental leave. And many of those plaintiffs are walking away with judgments reaching into the millions.

(Even though the trial judge in the Von's Markets case cut the jury's award nearly 85 percent, that still left the small business subject to nearly \$2 million in damages. Von's Markets has filed an appeal.)

Jury Verdict Research Inc., a private organization that monitors jury decisions throughout the country in cases involving claims of physical, emotional, and mental injury, reports that a former employee claiming wrongful dis-

charge has an 86 percent chance of winning a case brought against a private business or industry, as opposed to a 33 percent probability for a suit against a government entity.

Findings of the research firm, based in Solon, Ohio, show that the average damage award in cases based on claims of wrongful termination went from \$227,280 in 1986 to \$311,332 last year. The maximum jury award went from \$2.5 million to \$3.1 million to \$6.8 million over those same three years.

Most wrongful-discharge cases are based on allegations of emotional distress or damaged reputation. In a study of cases within California, the Rand Corp., a think tank in Santa Monica, found that awards to employee-plaintiffs averaged \$650,000.

As management-labor lawyer Richard G. Moon, of Portland, Maine, explains it: "Everybody and his mother are suing their employer when they're unhappy with anything their employer does to them, whether its termination or anything else. And it's happening across the board—from the smallest to the biggest companies."

Stephen A. Bokart, vice president and general counsel of the U.S. Chamber of Commerce, adds: "Workplace litigation is causing unbelievable problems for employers. You fully expect that every time you discharge an employee, or don't promote an employee, or demote an employee, you're going to get a lawsuit. That was not true even 10 years ago."

Many observers are concerned that, in a litigious atmosphere, traditional workplace relations are being altered to

the detriment of both employer and employee. Already, managers complain that a pervasive fear of being sued by their employees is restricting their flexibility to make decisions based on what's best for the business.

The threat of litigation, according to the Rand study, can force business managers into such counterproductive activities as

accepting inadequate performance from individual workers, failing to adjust employment levels to meet changing business needs, missing investment opportunities, and looking more to outside contractors for labor needs regardless of whether that is the best course.

"The impact on small business can be especially dramatic," notes Moon, whose firm—Moon, Moss, and McGill—advises mostly small-business clients. "The small-business man can least afford the extravagant legal fees and, at the same time, can least afford to condone mediocre performance while he gathers enough information and issues enough warnings to let somebody go."

What's propelling workers into the courtrooms? Legal authorities generally lay much of the blame on two historic trends—employers' increasing legal obligations to employees and the decreases in the ranks of organized labor.

The more significant factor is the proliferation of federal and state laws, regulations, and court decisions expanding employers' obligations—social as well as economic—to employees.

At the federal level, laws and regulations in dizzying array have been written in recent years to protect the rights of employees and limit the rights of employers. Starting with the Equal Pay Act of 1963 and the Civil Rights Act of 1964, and continuing through the Employee Polygraph Protection Act of 1988, a flow of statutes has had major impact on the workplace.

State legislatures and especially state courts, such as those in Califor-

Researcher Janet R. Beales contributed to this report.

COVER STORY

See You In Court

Attorney Joel Siegal of San Francisco, right, shown with a client, says more and more workers see litigation as the only way to air workplace complaints.



PHOTO: © ROBERT HOLMSTROM

nia, Michigan, and Montana, have gone even farther than the federal government in expanding the rights of private employees.

Michigan, for example, bans discrimination based on a person's weight or height. Washington, D.C., outlaws employment bias in 13 categories, including personal appearance, education, and sexual orientation.

"What we've seen is an increasing move toward a more European style of workplace regulation," says Theodore J. St. Antoine, professor of employment law at the University of Michigan. "For most of this century, the policy was to leave workplace regulation to the parties—the employers if the employees were not unionized, and collective bargaining if there was a union. Partly in recognition of certain inadequacies in that approach, partly in recognition of the decline of organized labor in many industries, the government increasingly began stepping in with regulations in such areas as discrimination, safety, and benefits."

The sharp decline in the ranks of organized labor noted by St. Antoine is the second reason for the explosion in employee litigation. Labor unions traditionally provided formal and informal mechanisms for settling on-the-job grievances. But with union membership down from its high of 36 percent of nonagricultural employment in 1945 to the present 15 percent, more and more employees are acting individually.

They see the civil courts as a convenient way to target employers with complaints demanding financial

awards, concessions, or frequently both. "Basically, because of the lack of organized protection, workers have had to take it upon themselves to file these kinds of actions," says Joel L. Siegal, a lawyer in San Francisco.

All this legal churning has been a boon for lawyers. "Our firm has quadrupled in the last eight years," reports employment lawyer Victor Schachter of Schachter, Kristoff, Ross, Sprague & Curiale, in San Francisco. Stephen P. Pepe of O'Melveny & Myers, in Los Angeles, says employment litigation now accounts for about 30 percent of his firm's business, up from 2 percent in 1979.

Most of that intensifying legal activity surrounding employment falls into four broad areas:

Wrongful Discharge

The court decisions that opened the floodgates for much of the most damaging litigation against employers is so recent that the ink has barely dried on some of them. For instance, the civil claim of "wrongful discharge" was little more than an obscure, largely untested legal theory just a decade ago. Fewer than 200 such cases were filed annually in the late 1970s.

Today, according to research by Alan F. Westin, a Columbia University professor of public law and government, more than 20,000 wrongful-discharge cases are in various stages of litigation around the country. Although the vast majority will be dismissed or settled out of court, all will involve time, effort, and expense—in some cases substantial

expense—for the employers involved.

The rapid emergence of wrongful discharge as the basis for employee suits constitutes, in St. Antoine's words, "the single most significant development in the whole field of labor and employment law during the past decade."

Traditionally, employees and employers have lived by a business concept known as employment-at-will: Either party—the employer or the employee—could terminate a work arrangement at any time for any reason, or for no reason. The concept recognized an employer's need to discharge workers whenever that employer determined such a step would benefit the business.

Legal scholars point to a 1980 ruling by the California Court of Appeals as the first major breach of the employment-at-will doctrine. The case involved an employer's stand that a longtime employee had been discharged for theft and the employee's claim that he was fired for attempting to organize fellow workers.

The court declared that employers had an obligation to deal fairly and in good faith with employees and could be held accountable for wrongful discharge if they terminate an employee "without good cause." It said the employee should be allowed to press his claim that he was unfairly fired for union activity.

Courts in other states soon followed with wrongful-discharge rulings of their own. Recalls the U.S. Chamber's Bokor: "Workers and lawyers elsewhere began asking, 'I wonder if I can create a cause of action under my state's laws?' It was like dominoes falling across the country. It has been just one case at a time, but slowly, the doctrine of wrongful discharge has been expanded."

Exceptions to the employment-at-will concept are now recognized by courts in some 40 states. Discharged employees in those states can recover economic losses and may regain their jobs by proving (1) that the employer broke an implied contract of continued employment; or (2) that the termination was contrary to public policy (such as dismissal for refusing to violate a law); or (3) that the termination violated an implied covenant of good faith and fair dealing.

In practice, a discharged employee seldom sues an employer solely on grounds of wrongful discharge. In order to broaden a plaintiff's opportunities for winning, a suit usually includes a host of other allegations, such as discrimination based on race, color, sex, national origin, age, or handicap.

Also, ex-employees often seek a jury trial by linking a wrongful-discharge claim to any of several common-law tort claims, such as defamation, inva-

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COVER STORY

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sion of privacy, or intentional infliction of emotional distress.

Because juries are notoriously hostile to employers, the discharged workers wanting them to decide their cases usually hope for substantial punitive-damages awards. While compensatory damages are intended to reimburse an individual for actual financial losses, punitive awards are made as punishment and, where set by juries, have ranged into the stratosphere.

Win or lose, the employer has to pay the costs of mounting a legal defense against an employee-brought suit. Those expenses can easily exceed \$250,000 in a vigorously contested case, lawyers say.

What concerns many people is "that these extraordinary verdicts that have been returned are just out of keeping with the real loss incurred," comments St. Antoine.

Reaction has begun to set in, at least in California, a trendsetter in employment law. The state Supreme Court, which pioneered in expanding employee rights, last December clamped down on

"Everybody and his mother are suing their employer when they're unhappy with anything their employer does to them. . . . And it's happening across the board—from the smallest to the biggest companies."

—LAWYER RICHARD G. MOON

awards for wrongful discharge based on breach of implied covenant of good faith and fair dealing. Employees winning such suits, it said, could recover only compensatory damages, such as lost wages and benefits, and could not seek punitive damages. Punitive damages could still be sought in cases alleging violations of public policy.

In late May, the California high court

dealt wrongful-discharge claims a further blow by declaring that its decision to eliminate punitive damages would apply to all suits previously filed in the state. The ruling would force plaintiffs and their lawyers to amend claims or withdraw their suits in hundreds of pending cases. With punitive damages eliminated in most cases, wrongful-discharge suits will become less attractive to lawyers, experts say.

"The lion has been declawed in California, but it is still a well-muscled, 500-pound wild animal," Victor Schachter told a Bureau of National Affairs conference on workplace law, held in Washington. "While there are no punitive damages left in California, unless you are dealing with a public-policy violation, the bottom line is that when you fire someone who is earning in the middle or high five figures, and add in his stock options, you still have a very attractive case for a plaintiff's lawyer to take."

Elsewhere, the legislatures of several states, including Illinois and Michigan, are considering proposals to pro-

Your Firm May Need A "Legal Checkup"

By Kelley V. Rea

Anyone reading the news lately might think that only large companies have legal problems. In truth, small enterprises—with limited resources—often have an even harder time complying with all the laws, regulations, and other legal matters that confront them.

That's why small, young businesses particularly should consider a "legal checkup" by a qualified attorney to assess the company's legal health and help put the company on a strong legal footing early in its corporate life.

Such an "audit" can be an efficient and cost-effective means for a small business to react to as well as try to prevent various legal problems.

A legal checkup often starts with questionnaires to, or interviews with, executives, managers, and others in the areas under review. This helps those who are conducting the assessment to learn the structure of the business and to give focus to the checkup inquiries.

Kelley V. Rea is a Minneapolis lawyer who specializes in legal and security planning for corporations.

The next step is to apply a checklist of legal principles to employment in the company's unit under review. All documentation on employment practices—including general employment policies, notices, handbooks, recruiting practices, hiring inquiries, employment agreements, rules of employee conduct, and employee evaluation, discipline, and discharge practices—should be examined.

Litigation is a prime area of inquiry. If sexual-harassment or wrongful-discharge cases are shown to be outstanding, for example, those conducting the checkup may want to inquire beyond the specific cases. The policies and practices of the company's human-resources department may be reviewed.

Regarding the sexual-harassment cases, the workplace environment could be examined, and the manner in which promotions and pay raises are determined could be studied. Specific verbal and physical conduct among employees could be assessed.

The inquiry regarding the wrongful-termination cases might focus on the company's disciplinary and termination process, the manner in which employees are informed of discipline and termination, and the documentation relating to employee termination.

Employee safety and security is an

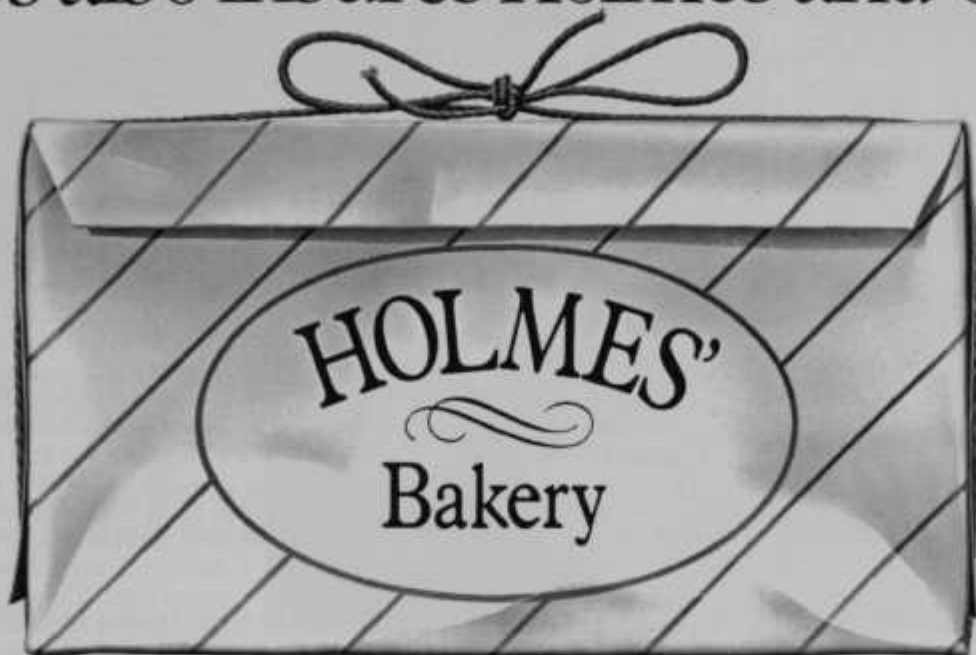
increasingly timely area of inquiry. If the response identifies, for example, "two workplace accidents, a purse snatching in the parking lot, and two instances of vandalism," follow-up checks should address two broad areas. One would be whether the accidents were recorded according to requirements of the Occupational Safety and Health Administration. The other would center on the company's security-protection measures, including the physical layout, the lighting of the business and its property, and the roles of any security guards.

Last, findings and recommendations would be prepared. The findings would assess the company's current legal health. The recommendations would seek to minimize the company's exposure to potential lawsuits or other legal problems.


This checkup method not only facilitates the assessment of the legal health of a company but—in the case of a young, small business—has the added value of often going hand-in-hand with the institution of legally smart business procedures.

Further, where a problem is detected in a new business, it usually can be corrected without disrupting longstanding practices, and the company then can operate in a reduced-risk environment.

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Labor lawyer Jay Waks warns employers that performance, not stereotypes, must be the basis of worker evaluations.



PHOTO: © TOW SOBOLEK—BLACK STAR

vide nonunion employees with basic protections against arbitrary termination while limiting the court awards that discharged workers could get if they sue.

Discrimination

Broadening coverage and liberal interpretations of discrimination in employment have given rise to tens of thousands of legal actions against employers in the past quarter century.

Title VII of the Civil Rights Act of 1964, the principal federal antidiscrimination statute, originally prohibited bias in hiring, promoting, or firing, or in pay or benefits on the basis of race, color, religion, sex, or national origin.

Subsequent federal laws, regulations, and court decisions have broadened the protected classes to include persons over 40 years of age, disabled veterans, Vietnam-era veterans, and the handicapped. In 1978, Congress amended Title VII to make it applicable to pregnancy, childbirth, and related medical conditions. More recently, the Supreme Court affirmed Title VII's application to sexual harassment.

At the state and local levels—even more than at the federal level—anti-bias laws are evolving fast and tilting toward employees. For instance, in many states, alcoholics and drug addicts are among groups protected under antidiscrimination statutes. Persons with transmittable diseases, including AIDS, are similarly protected in some states.

Because of the accumulation of civil-rights protections—and resultant litigation—employers are exercising extreme care in recruiting, hiring, promoting, paying, demoting, disciplining, and terminating employees.

Employers seeking to implement voluntary timetables and goals as the best means of correcting inequalities in the workplace have had to make frequent adjustments based on congressional actions and recent subtle but crucial

changes in the anti-bias law brought about by U.S. Supreme Court rulings. In just one closely studied ruling this spring, the court added several new legal requirements that could make it easier for employees to win bias suits against employers. That ruling held that unlawful sexual stereotyping had influenced the Price Waterhouse accounting firm in its denial of a partnership to one of its women employees. The employee, Ann Hopkins, had been evaluated by some partners as too "macho" and in need of "charm school."

The ruling requires that the legal burden of proof in Hopkins' discrimination suit will now shift to the employer. Price Waterhouse will have to establish that it would have rejected Hopkins' nomination based solely on nondiscriminatory factors—a task, wrote Justice Sandra Day O'Connor, that amounts to convincing the fact finder "that, despite the smoke, there is no fire."

New York labor lawyer Jay W. Waks tells employers the Price Waterhouse decision leaves them only one effective protection: "Educate your management so as to make evaluations on the basis of actual performance, not stereotypes, and let the employee know immediately how his or her performance rates."

Recently, in a separate decision, the Supreme Court made it harder for women and minorities to use statistics to prove discrimination in employment. The ruling, in a case involving the hiring practices of salmon canneries in Alaska, is expected to help employers rebut discrimination charges.

State Your Case On Workers' Suits

What are your views on the surge in employee litigation against employers? Have you been sued for wrongful discharge, discrimination, or other reasons? What did the lawsuits allege, and what was your view of the facts?

Are you concerned about the possibility of litigation?

Are the laws and regulations on which these suits are based weighted too heavily against employers? If so, should they be modified? How would you change them? What basic approach do you recommend to state and federal legislators dealing with these issues?

We would like to print your comments on these and other aspects of employee lawsuits. Write: Editor, *Nation's Business*, 1615 H Street, N.W., Washington, D.C. 20062.

Letters will be condensed and edited to allow use of as many as possible.

Sexual Harassment

In a 1988 survey of 165 Long Island executives, 1 in every 8 said their companies had been sued or threatened with a suit for sexual harassment within the past year. While not conclusive, the poll reflects the coming of age of gender-based harassment as a legal problem for employers.

"Harassment cases are booming in all kinds of places," says Portland, Maine, lawyer Moon. "More and more women, as they get higher and higher up in business, feel more comfortable with saying, 'Hell, I don't have to put up with this any longer.'"

As a result, employers are under heavy pressure from employees and the courts to develop and circulate clear policies, investigate any charges, and punish offenders to assure employees of a harassment-free workplace.

The pressure has been heightened by the Supreme Court's 1986 *Meritor* decision, in which the court held that employers could be liable for any harassing actions of a supervisor or employee under a number of previously undefined circumstances.

Last year, the Equal Employment



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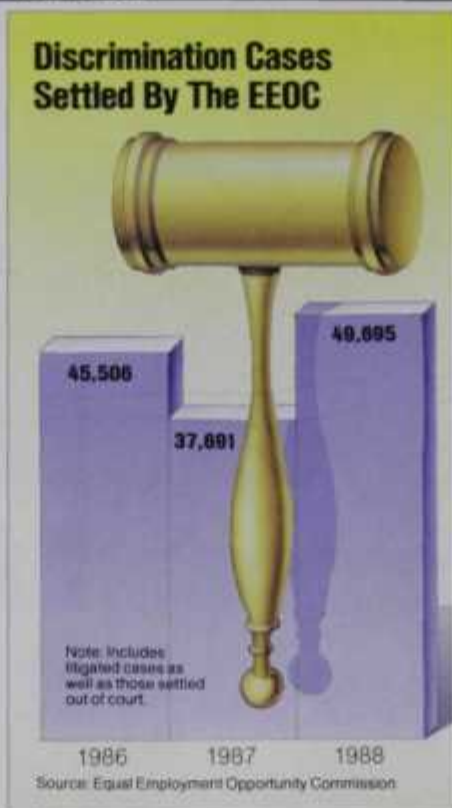
COVER STORY

See You In Court

Opportunity Commission (EEOC) handled 7,254 sexual-harassment complaints under Title VII, which requires injured parties to file discrimination charges with the EEOC as a prerequisite to a suit. Even so, the 1988 EEOC figures, virtually unchanged from the year before, do not reflect all claims throughout the country last year for sexual harassment.

Much of the real action in harassment litigation has been at the state level. There, by combining sexual-harassment claims with common-law tort claims such as assault, lawyers often can bypass the EEOC's rigid procedures and take employee cases directly to a state tribunal.

Relying heavily on jury trials, which they cannot get under the principal federal law, employees and ex-employees have gone into state courts to press charges of sexual harassment combined with one or more allegations of assault, battery, invasion of privacy, or intentional infliction of emotional distress. In Texas, a woman sued her employer on combined sexual-harassment and assault claims and was awarded \$45,000, including \$10,000 for mental-anguish damages. A Tennessee woman claimed the president of her company subjected her to unwelcome "sexual harassing and humiliating touching,"



which constituted assault, battery, invasion of privacy, and intentional infliction of emotional distress. She was awarded \$2,500 in compensatory damages and \$10,000 in punitive damages.

Privacy

As recently as 1979, there were few claims and no jury decisions in workplace privacy cases brought by employ-

ees against their employers. Today, lawyers are reporting a dramatic upsurge in those types of cases.

"Employees are suing their employers more frequently than in the past and are receiving increasingly higher jury verdicts," says a study on workplace privacy by lawyers Ira Shepard and Robert L. Duston, with the Washington, D.C., law firm of Schmeltzer, Aptaker, & Sheppard. Their survey of employee privacy cases decided from 1985 through 1987 showed jury verdicts averaging \$316,000.

The two lawyers attribute the increased employee agitation over privacy to several recent workplace developments, including "the advent of drug- and alcohol-abuse testing, computer monitoring of employees, employer liability for negligent hiring and for defaming employees, and the erosion of the common-law doctrine of employment-at-will."

Substance-testing programs alone have created major legal problems for many employers. Often caught between federal requirements for a drug-free workplace and employee resistance, employers are being squeezed from both sides as they try to devise effective testing programs. So far, Congress and the courts have given private employers scant guidance on solving

Laws Protecting Employees' Rights

Federal laws protecting employees' rights have proliferated in number and scope during the past quarter century. Among the most significant:

Equal Pay Act of 1963: Makes it unlawful to pay wages to members of one sex at a lower rate than members of the opposite sex for the same work and the same job.

Title VII of the Civil Rights Act of 1964: The springboard for employee rights, it prohibits employment discrimination on the basis of race, color, religion, sex, or national origin.

Age Discrimination in Employment Act of 1967: Says an employer may not discriminate against people over 40 years of age unless age is a necessary requirement for the job.

Occupational Safety and Health Act of 1970: Requires employers to maintain a safe environment for their employees.

Vietnam Era Veterans' Readjustment Assistance Act of 1972: Requires employers with federal contracts of \$10,000 or more to take affirmative action to hire disabled and qualified veterans of the Vietnam War era.

Vocational Rehabilitation Act of 1973: Employers with federal contracts of \$2,500 or more must take affirmative action to employ and advance qualified handicapped persons.

Employee Retirement Income Security Act of 1974: Employers who provide pensions for employees must establish and maintain their retirement plans according to federal minimum standards.

Pregnancy Discrimination Act of 1978: Under the terms of Title VII of the Civil Rights Act, pregnant women are protected from discrimination.

Immigration Reform and Control Act of 1986: An employer must not discriminate against a job applicant on the basis of national origin or citizen status but may give preference to a U.S. citizen over an alien if both are equally qualified.

Employee Polygraph Protection Act of 1988: Most private employers are barred from requiring or asking employees or prospective employees to take a polygraph test, and from disciplining any who refuse such a test.

Worker Adjustment and Retraining Act of 1988: Effective last Feb. 4, employers must give their workers 60 days' notification of plant closings and mass layoffs.

In addition, several dozen federal statutes, such as the **Fair Labor Standards Act**, protect employees from discrimination or discharge for exercising statutory rights. Such protections often are included in newly enacted laws.



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See You In Court

the drug-testing dilemma. (For more on the legal aspects of drugs in the workplace, see the article on Page 29.)

Some experts say privacy will become "the workplace issue of the 1990s," as the rights of employers and employees are further defined by the courts, state legislatures, and Congress.

While developments over the whole spectrum of employee lawsuits have generally represented increasing problems for employers, lawyer Moon voices some optimism. "Slowly," he says, "the problems that employers have been having with employee lawsuits are clarifying themselves in some areas. There are enough court decisions out there now so that employers in most states, if they are talking to competent counsel, ought to know when they're on shaky legal ground and when they are not."

"They ought to be able to devise reasonably prudent policies and procedures which will actually allow them to make decisions that are both sensible

from their business-operation points of view—which differ from one employer to the next—and also allow them to avoid litigation problems, or if they get stuck with somebody suing them anyway, that they can prevail."

The whole arena of employee relations is so fraught with risk that no employer should make decisions or policy changes that affect employees, or that might be perceived as affecting employees, without first seeking professional advice.

Nonetheless, experts say certain guidelines can help employers avoid mistakes and misunderstandings that may lead to litigation. Here are steps you can take:

- Consider including language in your employee handbook or job application stating the company's policy on employment-at-will. Some employers require employees to sign a waiver recognizing the employer's right to terminate at will. But Moon warns: "Putting in that protection will only assure that you have an issue to argue; it won't assure that you'll win it."

- Consider bringing in experts to conduct an "employment audit" of the company. The examination will review all written policies, including employment handbooks and pension plans, to make sure they don't guarantee em-

ployment for a certain time, such as until age 65, or contain language that can be used to bolster other claims of an implied contract. The audit also will analyze practices to see if the company's past treatment of employees has set up expectations that management is unable or unlikely to follow.

- Beware of "any kind of writing that is going to give your employee some kind of contractual hook" for a lawsuit, says employment lawyer Joel P. Bennett, of Washington, D.C. "Any kind of a paper trail that can result in a finding of a contract is very dangerous."

But the University of Michigan's St. Antoine cautions that employers should proceed carefully in removing provisions in employee manuals that state or imply that employees will be discharged only for just cause. He advises that a pay raise or new benefit should accompany any such change—to minimize the potentially "shattering effects" on employee morale.

- Recruiters, managers, and supervisors should be trained not to make promises, such as telling employees they can look forward to "a long and rewarding career" with the company, that can be used in a wrongful-discharge suit. Courts have ruled that such statements can be legally binding.

- Employers and managers should

Useful Books On Employment Law

In dealing with the complexities of employment law, employers may find the following publications useful:

Guidelines to Protect Associations and Their Members from "Wrongful Discharge" Damage Suits, by Gerald P. Panaro. Published by the U.S. Chamber of Commerce, it gives an overview of significant court rulings as well as useful tips for staying out of court. It is priced at \$2.50 for Chamber members and \$3.50 for nonmembers.

Another Chamber publication is *Drug Abuse in the Workplace: An Employer's Guide For Prevention*, by Mark A. de Bernardo. The price is \$20 for Chamber members and \$33 for nonmembers.

Both publications may be ordered from Publications Fulfillment, U.S. Chamber of Commerce, 1615 H Street, N.W., Washington, D.C. 20062; (301) 468-5128. *Drug Abuse* is publication No. 6972; *Guidelines* is No. 6775.

Understand Employee Regulations: An Employer's Guide to Federal Law, by Sheldon I. London, is a comprehensive, easy-to-read resource that could



Attorneys Ira M. Shepard, Robert L. Duston, and Paul Heylman (from left) are authors of a legal guide.

help you avoid legal problems. The book features practical information, such as how to limit liability, and it includes case studies. Priced at \$19.95, it may be ordered from London Publishing Co., 1025 Vermont Ave., N.W., Suite 1201, Washington, D.C. 20005; (202) 639-8888.

Another overview can be found in *Your Rights at Work*, by Darien McWhirter. Containing succinct explanations of current law, case examples, and guidance for correcting inequities in the workplace, it is directed at the employee but is informative for supervisors as well. It is published by John Wiley & Sons and is available in bookstores for \$14.95.

If you seek more technical information, you may want to examine the full lineup of books, pamphlets, and reports on various aspects of employment law published by the Bureau of National Affairs, an information service in Washington, D.C. Among BNA's most recent volumes is *Without Just Cause: An Employer's Practical and Legal Guide on Wrongful Discharge*, by Ira M. Shepard, Paul Heylman, and Robert L. Duston. The book, which sells for \$95, provides an up-to-date analysis of a rapidly changing area of the law.

Other BNA books include *Resolving Employment Disputes Without Litigation*, by Alan F. Westin and Alfred G. Feliu, \$40; *Management Rights*, by Marvin Hill Jr. and Anthony V. Sinicropi, \$40; and *Workplace Privacy*, by Ira M. Shepard and Robert L. Duston, \$95.

All BNA publications may be ordered by calling BNA at 1-800-372-1033.

Employment Law Compliance Handbook, by Zachary D. Fasman and Michael J. Album, can help employers decide whether their employment practices comply with equal-opportunity laws and regulations. It is priced at \$75 and is available from the publisher, Executive Enterprises Publications, 22 W. 21st St., New York, N.Y., 10010.

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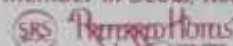
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To foreigners, however, the Lotte Group is best known for the five star hotel it operates in the center of Seoul. Since the establishment ten years ago, it has been the preferred hotel of visiting businessmen and dignitaries.

Within the last year, Lotte has completed the new downtown wing and the Lotte World complex near the main site of the Seoul Olympic Games.

The new downtown 35-story wing includes an additional 465 rooms as well as a number of new restaurants and bars.

In Seoul's bustling Kangnam district stands Hotel Lotte World, a 533-room hotel, shopping and entertainment complex that is the latest addition to the Lotte Group. Shortly, an entertainment and amusement park will be opened adjacent to the Lotte World.

Even more recently, the group acquired a site in the southern port of Pusan which will be the location of a third luxury hotel.

The new wing, completed at a cost of 150 billion won, came on stream just as the finishing touches were being put on the 600 billion won Lotte World project.

The Lotte continues to enjoy a leadership position. During peak seasons, hotel occupancy has been close to 90% and even during the off-season, occupancy rates average in the 80% range—testimony to Hotel Lotte's popularity.

Confident and optimistic about Korea's promising future, the Lotte Group will continue to lead in the Hotel, Entertainment and Retailing Sectors.

COVER STORY

See You In Court

know employees' rights under the law. This includes workplace privacy, safety, pension, antidiscrimination, and other rights spelled out in dozens of federal, state, county, and city laws. Remember that state and local laws often are broader than the federal statutes. For instance, the laws administered by the U.S. Equal Employment Opportunity Commission cover only businesses with more than 15 employees. State and local "human-relations" statutes sometimes apply to businesses with only one employee.

● Consider having an internal review process to prevent management mistakes in discharging an employee. "What I tell employers is, 'Run it through someone else,'" says Bennett.

● Employers should provide employees with some degree of "due process." Employees should be treated consistently, should be given opportunities to speak and present evidence in their own behalf, and each employee should be allowed "to see, comment on, and copy anything affecting him in written reviews and personnel file memoranda," writes Gerald P. Panaro, a Washington, D.C., lawyer and author of *Guidelines to Protect Associations and Their Members from "Wrongful Discharge" Damage Suits*. (To obtain Panaro's paper, see the box on Page 26.)

If there is one aspect of employment law upon which experts all seem to agree, it is that no amount of planning and precaution will protect an employer from every potential legal hazard. Each area of the law has its own complexities and is in flux.

And no amount of planning can anticipate the effects of all the new employer requirements that may yet come down the pike, such as the tax code's complicated Section 89 employee-benefits tests, which, unless repealed by Congress, will go into effect Oct. 1.

A dozen or so more employee-rights proposals—from Sen. Edward M. Kennedy's mandated-health-benefits bill to Sen. Howard Metzenbaum's plan to restrict employee age-discrimination waivers—are pending in Congress.

"If you think employers have a lot of laws to contend with now, look at the agenda of new legislation in Congress," concludes lawyer Ira Shepard. "If those bills become law, it will more than double the amount of employment litigation that we've already got."



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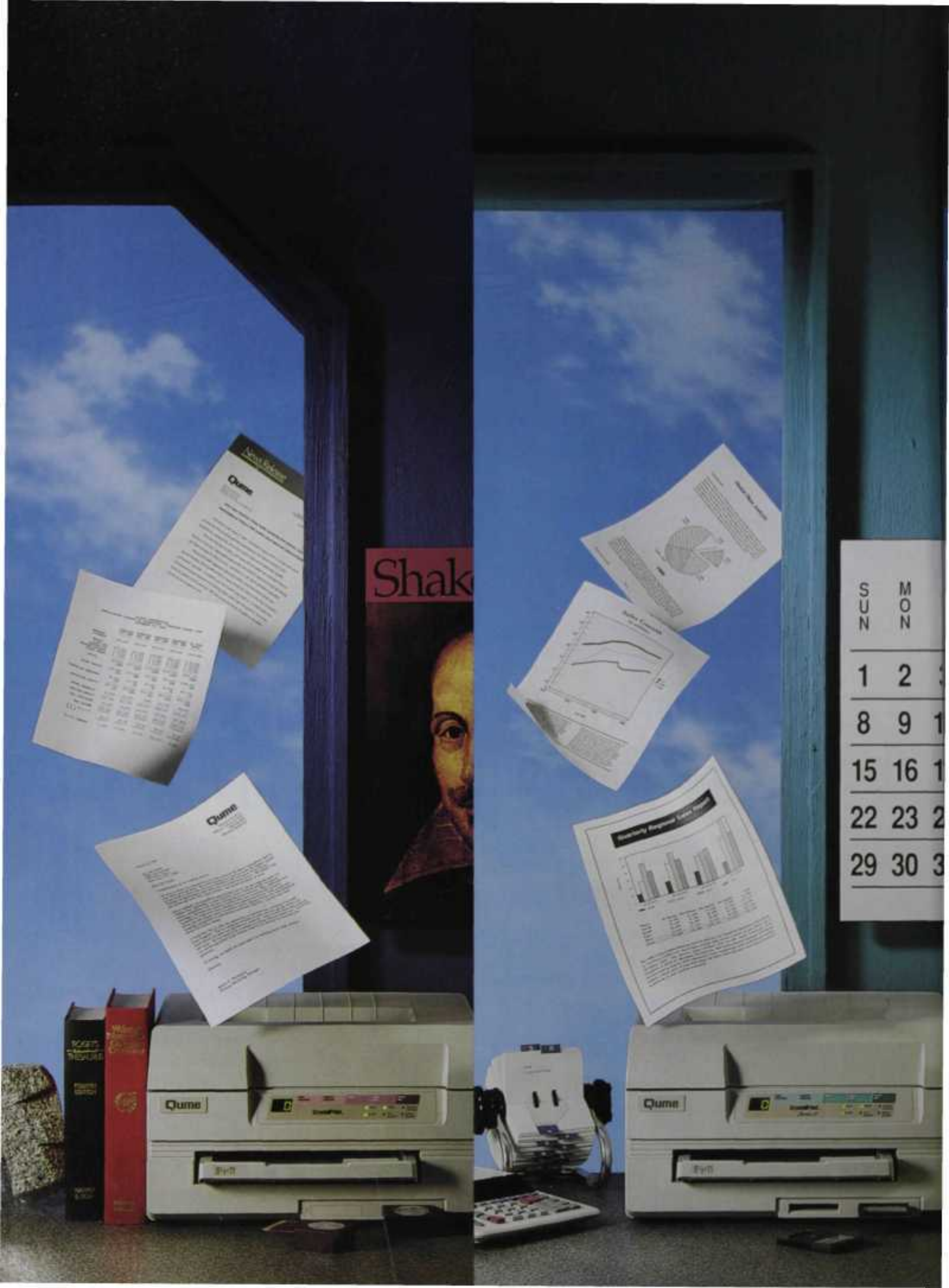


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On The Job Against Drugs

If the time has come for your company to establish a drug-abuse program, consider these clear guidelines for making it effective.

Drug abuse costs American business more than \$60 billion a year in five areas alone: decreased productivity, increased absenteeism, workplace accidents, medical costs, and theft.

More and more employers are setting the goal of a drug-free workplace to combat not only those problems but also the social and economic damage to society caused by the drug epidemic.

Employers considering the implementation of a workplace program to prevent drug abuse—of illegal and prescription drugs and of alcohol—should be ready to develop a strategy based on some or all of these factors:

- Commitment
- Policy development
- Policy coordination
- Communication, education, and training
- Enforcement
- Testing
- Rehabilitation
- Disciplinary action
- Follow-up

This is what should be done within each of these areas:

Commitment

The commitment to a drug-free workplace must begin with the top managers of your company. Your employment records should enable you to determine whether the company has a drug-abuse problem serious enough to warrant a formal program.

Look for abnormal increases in absenteeism, accidents, compensation claims, turnover, thefts of company property, grievance proceedings, wage garnishments, and arrests. Check also for any abnormal decreases in the meeting of production deadlines and goals. If this process points to specific individuals, then ask supervisors and employee representatives for their analyses of the problem.

Policy Development

If you decide that drug testing will be part of your program, you must identify test subjects and test procedures. Will you test all job applicants, all employees, just those employees with safety or security responsibilities, or those who have had accidents? Will testing be announced and conducted on



PHOTO: GREGG MARCUSO—UNEPHOTO

Keep communication lines open by explaining your firm's drug-abuse-prevention program and recognizing the value of employees' feedback and suggestions.

a regular schedule? Will it be random and unannounced?

You also should recognize that alcohol abuse and illegal use of prescription drugs are major drug-abuse problems and need to be addressed comprehensively as such.

Another key question: What disciplinary action will be taken against violators? Your choices include dismissal, suspension with or without pay, demotion, transfer, and/or an offer of rehabilitation and counseling.

Policy Coordination

The coordination should be with those people within your company who are responsible for labor relations, personnel, medical care, security, public affairs, and occupational safety and health. Your legal counsel should make sure that the policy is consistent with other company policies, that it complies with relevant federal, state, and local laws regarding drug testing, and that it minimizes the vulnerability of the company to legal challenges.

You should also contact local experts outside your company for advice on

crime prevention, medical aspects of drug abuse and rehabilitation, and counseling services.

Enlist the cooperation and support of your employees' union or association, if any. Bargain collectively on your intentions to implement a drug-abuse-prevention policy and program (especially regarding drug testing, which labor law makes subject to collective bargaining).

You can now issue a formal, written company policy on drug abuse. It should explain your commitment to a drug-free workplace, plans for testing, and the consequences for refusing to be tested and for violating your abuse-prevention program. Make it clear also that law-enforcement officials will be contacted regarding confirmed sale, purchase, or significant possession of illegal drugs on the job.

Communication, Education, Training

Your policy for preventing drug abuse should be communicated to employees through direct briefings; through notices in company newsletters, paycheck envelopes, and on bulletin boards; and in letters from the company president or plant managers. The success of your program will depend upon its acceptance by the employees and job applicants themselves. Your employment applications and employee handbooks

MANAGING YOUR BUSINESS

On The Job Against Drugs

should carry statements making it clear that employment by your company is contingent on the person being drug-free. Your program should include arrangements for educating employees on the dangers of drug abuse.

Keep all possible lines of communication open, and recognize the importance of employee suggestions and feedback to the company's drug-abuse program. It is a good idea to designate a contact person with whom employees can discuss drug-abuse concerns regarding themselves or their fellow workers.

Local police should know of your program and your willingness to cooperate with them in criminal investigations of illegal drug activity.

Enforcement

Show full support for your supervisors as they fulfill their responsibilities to implement your program. This will demonstrate the seriousness of your commitment and will assure supervisors and employees that they should cooperate in efforts to identify those employees who violate the law and/or



PHOTO: HERMAN KOKOJAR-BLACK STAR

Be cautious about searching lockers and using drug-detecting dogs.

company policy. Also, fairness requires you to discipline supervisors who abuse their power, harass employees, lie, or otherwise act in bad faith. If you expect cooperation and positive morale in implementing your policy, employees must be convinced that enforcement is fair and consistent.

Records on test results, accidents, and other drug-related incidents should be thorough. Your best defense to a challenge to disciplinary action based

on drug abuse is documentation. It is also an important safeguard for protecting innocent employees. Keep these records secure and confidential.

Use discretion in vigorous surveillance and detection techniques such as searching lockers, offices, or vehicles and using hidden cameras, undercover operations, and drug-detecting dogs. Use them only when necessary to combat severe drug problems.

Drug Testing

Remember that drug testing is only one aspect of a comprehensive strategy to prevent drug abuse in the workplace. If used, its implementation must be as fair, accurate, and legally defensible as is reasonably feasible.

Extreme caution must be used to prevent misidentification and to assure that the collection, handling, and testing procedures are reliable and accurate. Extreme caution is necessary also because relevant laws are constantly changing and make advisable consultation with legal counsel before implementation.

Answers To Employers' Chief Questions On Drug Testing

Q. How extensive is drug testing?

A. Very extensive and increasing all the time. In 1983, only 3 percent of major corporations had drug-testing programs. By 1988, the number exceeded 50 percent. Although less common for small and medium-sized businesses, drug testing nonetheless is widespread, even among these employers.

Q. Why are employers interested in drug testing?

A. Employers are interested in preventing drug abuse, not just in drug testing. In some employment situations, testing can be an effective component of a program to prevent drug abuse.

Q. What type of drug testing is usually used?

A. The most common types require a urine specimen from the person being tested. By mixing the specimen with a chemical that reacts to a specific drug, the laboratory can detect marijuana, cocaine, heroin, and other illegal—and legal—drugs. Testing is generally most

effective, equitable, and accurate when two methods are used. The first is relatively simple and inexpensive. A confirming test is more complex.

Q. How reliable is drug testing?

A. Initial screening may result in some "false positives" or "false negatives." But the accuracy for the most common initial tests is 92 to 98 percent. Furthermore, the most common confirming test, the gas chromatography/mass spectrometry, which is used on a second portion of an original sample and uses a different chemical process, is virtually without any margin of error.

Q. How can accuracy be assured?

A. Human error is the most common cause of inaccuracies. Some of the ways to assure accuracy include: (1) using well-trained and certified personnel who follow professional procedures; (2) assuring chain-of-custody for specimens, that is, documenting who has had possession of each sample at every step of the testing process, to prevent tampering, substitution, misidentification,

or misplacement; (3) splitting specimens into two samples so that a second test can be performed using the initial specimen when the first half of that specimen tests positive; and (4) performing a confirming test.

Q. Is it legal for employers to require new hires to be drug-free?

A. A qualified "yes." There is no constitutional prohibition against drug testing in the private sector. If and when the Constitution's ban on unreasonable searches is interpreted to cover drug testing, it would only apply to government actions, not to private employers. Employers have the broadest latitude on testing job applicants, and they have a qualified right to make being drug-free a condition of employment.

Q. What are the penalties for people who test positive for drugs?

A. For job applicants, the penalty is invariably denial of employment. For employees with serious drug-abuse problems, the options include suspension with or without pay pending the outcome of rehabilitation efforts. Another option is dismissal. Employees with less severe drug problems and in noncritical jobs might be permitted to continue working on condition that they undergo rehabilitation.

Request—but don't require—job applicants at the time the drug test is administered to sign a waiver of legal rights of action against the employer for administering drug tests and acting in "good faith" on the results. This waiver permits the test and waives the employee's right to challenge the ability of the employer to administer the test or act on the test's results. Such release of employer liability, signed at the time of hiring, must be signed knowingly and willingly.

In launching a testing program, contract with a reliable, professional drug-testing service or use an in-house program that will assure quality control and chain-of-custody for test samples. (Chain-of-custody is the system of documenting exactly who had possession of a sample at every step in the testing process.) Stress that testing personnel are trained and that the manufacturer's instructions for the testing apparatus are followed to the letter. An outside contractor should have professionals available to serve as expert witnesses.

In administering tests, split the urinalysis specimen into two samples so that a second test can be performed using the same specimen if tests of the first half are positive. The second test should involve a chemical process that is different from and more precise than that used in the first test. Retain for a reasonable time refrigerated samples that tested positive; they may be needed as evidence.

Preserve the confidentiality of results, making every effort to observe reasonable employee expectations of privacy and confidentiality.

Provide timely and complete notification to employees who test positive for drugs on both initial and confirming tests. Inform them of the results and what those results mean.

Rehabilitation

When feasible and appropriate, give employees who test positive an opportunity to participate in in-house or community rehabilitation programs. The programs should include monitoring, treatment, retesting, and counseling. Recognize that the identification of a drug-abuse problem is only the first step and that rehabilitation is the ultimate and most humane goal. But participation should be open only to employees who acknowledge a drug-abuse problem. Stress that strict adherence to the requirements of the program and random retesting make up the only alternative to dismissal.

Disciplinary Action

Document as fully as possible a relationship between declining job performance and drug abuse before taking disciplinary action against employees. This is especially important for employees in jobs where there is a minimal risk to the safety of the public or co-workers, or little need for public trust, or no access to substantial amounts of cash or valuables.

Workers with chronic drug-abuse problems should be dismissed. They are: those who are unable or unwilling to be rehabilitated; those who pose a significant safety or security risk; those who, because of drug abuse, cannot do the job for which they were hired; or those who have been apprehended selling drugs illegally on the job.

You will need a mechanism for quick, fair review of employee complaints and for resolution of grievances filed by employees who are discharged, suspended, demoted, or transferred for violating company drug-abuse policies.

Follow-Up

Finally, there should be a periodic evaluation at the senior-management level of how well the company's objectives are being achieved by your program to prevent drug abuse, and you should be ready to make changes where necessary and appropriate. **■**

This article was adapted from Drug Abuse in the Workplace: An Employer's Guide For Prevention, which was published by the U.S. Chamber of Commerce and was written by Mark A. de Bernardo, director of labor law for the Chamber and executive director of the Institute for a Drug-Free Workplace, a major corporate initiative to prevent substance abuse. Copies of the 121-page guide are available from the Chamber at 1615 H Street, N.W., Washington, D.C. 20062 or via telephone order to (301) 468-5128. Ask for publication No. 6972. The price is \$20 for Chamber members, \$33 for nonmembers. The cost of bulk orders is available on request.

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Small-Business Computing

A compilation of quick bytes telling you what's new and useful about an increasingly essential business tool.

Easy, Fast, Simple, And All That Jazz

How much can a personal computer really do for you? Although most business people do not want to become computer experts, that seems to be expected by the manufacturers of these often wonderful, always maddening, technical miracles. Software publishers regularly describe their offerings as "easy"; we think that is the most overused and abused word in the computer lexicon.

All of us want a machine that is easy to set up and needs no service, with programs that are a snap to learn, do precisely what we want them to do, and always work.

Dream on.

There should be a middle ground for uncommitted computer users: those who have to have the machines and want to know what they need to know to make intelligent use of them. "Small-

Business Computing" is written by business users familiar enough with technology and software to know what to look for, without being techno-nerds.

Our search is for relatively simple, down-to-earth advice about how to get good value from an increasingly essential business tool.

If you have a nagging question whose answer you think would be useful to a large group of business people, we'd like to hear from you. Please send your questions and comments to: "Small-Business Computing," *Nation's Business*, 1615 H Street, N.W., Washington, D.C. 20062.

ACCOUNTING

Enough Is Enough

Accounting software is among the most difficult to master for the casual business-computer user. Although you may need a full-scale accounting package with general ledger, accounts receivable, accounts payable, and payroll, you might just want something simple to start with—bookkeeping that works the way you do now.

Many small-business owners use a bookkeeping method called Dome. The Dome book, available in every office-supply store, is single-entry, simple, and sufficient for many small businesses. It is available in computer form from Great American Software, office-supply stores, or computer stores.

The Dome software simply automates the addition process and keeps track of your current cash flow. It's relatively cheap (a recent price jump takes it out of the cheap category) and easy to use. It contains some simple reports of current financial status. The drawbacks: You can't export data to other programs, you can't change from monthly to weekly cycles once you've started, you can't have shortcut keys to simplify entry.

Dome retails for \$59, from Great American Software Inc., 9 Columbia Drive, Amherst, N.H. 03031-0901.

—Ripley Hotch

INFORMATION FINDER

Around The World In 80 Seconds

New software comes along every now and then to remind us of how versatile the personal computer really can be and of how little use we make of its amazing capabilities.

Such a product is PC-Globe+, hailed by many analysts as the most comprehensive, innovative, and easy-to-use of the new geographical database programs that turn your PC into an electronic atlas.

If your company does business abroad, if you travel overseas for business or pleasure, or if you just want to be better informed about countries and groups of nations currently in the news, PC-Globe+ can furnish more helpful information with a few keystrokes than you could dig up in a week of research at the local library.

Its business applications seem especially suited for international marketing and the travel industry. Current users of PC-Globe+ range from Kentucky Fried Chicken to the Central Intelligence Agency.

The program's principal features are full-color maps displaying a variety of geographical information—such as elevations, cities, and rivers—on 177 countries. By touching a key, the user can call up additional information on every

country's population, age distribution, literacy, languages, economic data, political leaders, commodities, exports, ethnic groups, tourist attractions, and telex, telephone, and radio codes.

PC-Globe+'s pop-up menus include special utilities that allow you to calculate exchange rates, convert foreign currencies, and compute distances.

The best thing about PC-Globe+ is



that it is fun to use. There seems no end to the information it can summon up. Want to know which country brews the most beer? All you need do is ask. (Answer: the U.S., which brews 22.89 billion quarts a year.) Of course, a program that swallows up 1.5 megabytes on your hard disk, as PC-Globe+ does, ought to be versatile and comprehensive.

The program is a product of Comwell Systems Inc., of Tempe, Ariz. It is available for \$69.95 at PC software stores.

—Donald C. Bacon

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MANAGING YOUR BUSINESS

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SCREEN DREAMS

In April, Southwestern Bell Telephone announced the first test of a version of videotex—a way for telephone users to view many kinds of reference material at home.

The system uses cheap (or cheaply rented) terminals similar to the ubiquitous Minutels of the French national telephone system, which were originally created to replace printed white and yellow pages.

Southwestern Bell phone lines will be the channel for independent brokers who will seek out and screen information sources.

These sources can be anything from social service agencies to grocery stores to services offering restaurant listings, weather, stock tables, shopping, and anything else that will sell.

Services are about 10 cents a minute

Find it faster.



to use; surcharges are explained in advance.

Earlier experiments with videotex have been spectacular flops, partly because the number of PC users with modems has been fairly small and the equipment is expensive. (IBM and Sears have joined to create another pitched at PC users, called Prodigy.) Southwestern Bell is betting that its inexpensive approach will get a large subscriber base and heavy use.

Southwestern Bell says early response in Houston, the test site, has been much more positive than it had expected.

One thing for sure: There will be lots of entrepreneurial opportunities for imaginative information providers. Stay tuned.

—Ripley Hotch

COMMUNICATIONS

You Can Take It With You

How many times have you sat at your computer at home or your lap-top in a hotel room and muttered, "Why didn't I bring that file with me?"

If you find that you have asked yourself that question too often, then one of about half a dozen remote-control programs on the market now may be for you.

These programs allow you to access data and programs in your office stand-alone or networked computer from a remote site. The program resides in the memory of your terminal when you log out of your network.

From home or on the road, you can

simply call your office and log in, then read, write, or revise data or send electronic messages to other network users.

Fine-tuning the installation to your system can be tricky.

But if you do a lot of work away from the office, a program such as Carbon Copy (by Meridan Technology) can be a lifesaver.

The program costs \$195, and two copies are required.

Similar programs to try: Norton-Lambert's Close-Up; Triton's Co/Session; and Crosstalk Communications' Remote 2.

—Albert G. Holzinger

EXECUTIVE SUITE

High Style For CEOs

Watch out, you senior executives who so far have resisted having a computer in your own office. Manufacturers are out to win you over.

Computers, you say, are cold, unattractive boxes that look too much like clerical tools? Besides, they take up a lot of space and clash with the decor? Emerald Computers Inc., of Portland, Ore., offers a new machine to counter those arguments.

This spring Emerald is introducing a new, ultrasmall, uniquely designed local-area-network station that it claims is as functional as it is attractive.

The machine uses the 80286 processing chip and comes with 2 megabytes of random-access memory. It has no disk drives to produce annoying noise and heat. Instead, it boots up from and stores data on a removable, credit-card-size "ROM card." But the feature that the company believes will win the heart

of many a company boss will be the product's good looks—a flat screen attached to a stylish black case about the size of a shoe box. Cost: about \$2,500.

Also targeting senior executives this year is Powder Blue Computers Inc., of Salt Lake City. Powder Blue is offering corporate chief executives a custom-built version of its new Macintosh-compatible BlueMAQ computer in a PC-like enclosure for \$30,000 a unit.

"Admittedly not for the average user nor budget-minded," the company says, the BlueMAQ CEO is intended for "the movers and shakers of America's economic community who want the most advanced personal-computer technology at their fingertips." A budget version with fewer bells and whistles is available for \$4,800.

—Donald C. Bacon

The Emerald computer: Now for something completely different.



HARDWARE

Scantastic

If you go by the number of new products available, scanners almost certainly will be the latest piece of equipment to become an office essential.

Scanners "read" text or graphics directly into a computer.

Text-reading (OCR, for optical character recognition) scanner programs have been far behind graphics programs because it is so hard for a computer to interpret the countless sizes and variations of typefaces—not to mention handwriting. The computer has a hard time, for example, deciding where one letter leaves off and another begins. Scanners have been available for some time at a cost of \$60,000 or so. But that price obviously wouldn't encourage the average small business to



Will you be the first on your block?

leap in, just to avoid hiring additional clerks. But new software and boards can put a page of text into your word processor in a minute or so, at a cost of \$3,500-\$5,000—making the technology tempting indeed.

Now there's a handy guide to this exciting technology—*The Scanner Book*, by Stephen Beale and James Cavuoto. Direct and thorough, it tells you about the technology, suggests some legal problems (what happens to copy-right?), suggests some terrific ways to use it, and includes a buying guide to current systems (certain to be out of date soon, but good as a starting point). Available for \$22.95 from Micropublishing Press, 21150 Hawthorne Blvd., #104, Torrance, Calif. 90503.

—Ripley Hotch

SECURITY

Here's One to Kick Around

The vulnerability of computers to moisture, dust, heat, and other enemies has made their use risky in many situations.

But the PC/QT, says its manufacturer, is at home in hostile environments. Introduced at the spring COMDEX computer show in Chicago, the PC/QT is manufactured by PCQT AB, of Kista, Sweden. The company says its computer is designed to overcome most indoor and outdoor hazards.

The PC/QT looks much like an ordinary PC, but its special case resists, among other things, heat up to 104 degrees Fahrenheit, electrical disturbances, water, dust, and particles. Its shock-mounted circuit boards and drives withstand vibrations and jolts. It even has an answer for the dreaded sudden power interruption: internal batteries to keep the PC/QT running.

With an 80286 processor and 16-megahertz clock frequency, the PC/QT is said to be particularly suited for industrial and military environments, and mobile workplaces. It will be priced, says the manufacturer, "within the limits of a regular PC."

—Donald C. Bacon

The insurance renewal process, problem or solution?

In today's business insurance environment, a well-managed renewal process can result in lower premiums, better coverage—or both. Whether you involve one broker or many, it takes a professional approach to get the most out of your renewal.

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No Easy Answers

By Roger Thompson

Two dozen business people in North Kansas City, Mo., recently took the day off. And 170 local high-school seniors skipped class. But neither group stayed home.

Instead, they spent the day together in a community-center gym, where they pulled up chairs and got down to business of a different sort: exploring ethical decision making in the workplace.

Think of their six hours together as a

crash course designed to introduce tomorrow's business-world recruits to the kinds of tough ethical choices faced nearly every day by those already in the workplace.

Among those types of decisions:

- Should an accountant sign a client's tax return when he knows the return contains false information?
- Should a salesperson push an inferior product just to make a quota?
- Should a defense attorney work for a client he believes to be guilty?
- Should a secretary keep quiet about a supervisor who adds personal expenses to business-expense reimbursement claims?

Moderator David Lankford, standing, led the ethics workshop for North Kansas City students. Among them were, in photo at left, Teddy Taylor (top), Micha White, and Casey McCroskie, and, at right, Susan Wharton and Bret Boule.

PHOTOS: © ED LALLO

In discussions of such questions, the business professionals draw on their experience to "show students by example that the great majority of business activities are ethical," says David Lankford, vice president for education of the Missouri Chamber of Commerce. He moderated the North Kansas City session, which was organized by the Northland Chamber of Commerce and North Kansas City High School.

Lankford approaches the subject of business ethics by first helping students identify certain values that form the basis for decision making. The values include honesty, generosity, helpfulness, self-reliance, and kindness. He



A crash course helps high-school students see the kinds of tough ethical choices that they could face when they reach the workplace.

then encourages the students to examine the sources of their fundamental beliefs, sources such as home, church, school, and peers.

The next step is to put those beliefs into action by challenging the students to find the "best" solutions to examples of ethical dilemmas in the workplace.

In one case, a regional sales manager is being pressured by two major customers who say they might take their business elsewhere if the manager doesn't hire a certain person, who is incompetent. Should the manager hire the person? In another case, a plant manager finds that his brother-in-law is illegally—but cheaply—disposing of the company's hazardous waste to help keep the firm financially afloat. Should the manager blow the whistle?

Students tackle such problems in small discussion groups organized according to their career preferences. The business professional at each table mediates between conflicting values and presses for a consensus.

The idea for the workshop evolved three years ago from a mother's anguish over an ethical dilemma one of her daughters faced during the early days of her first job. "That incident caused me to realize that kids today are forced to make tough decisions without the tools to do it," says Linda McKay of St. Louis.

A few weeks after her daughter's experience, McKay learned of a daylong business-ethics workshop to be sponsored at her church by the McDonnell Douglas Corp., one of St. Louis' major employers. The workshop was open to the public, and McKay attended. She was so impressed by the program developed by the company for its 120,000 employees that she asked for, and received, the company's help in adapting the materials for high-school seniors. She was a full-time homemaker at that point, and her efforts were voluntary.

Sanford McDonnell, chairman emeritus of the company, applauds McKay's work: "We want high-school students getting this type of training so we can reinforce it rather than present it for the first time once they are on the job."

Along the way, McKay teamed up with Lankford of the Missouri Chamber. He is a former teacher and is at

ease presenting the program to a teenage audience. Lankford also has helped the program tap into local chambers of commerce for the business support it takes to give the workshop "real world" credibility in the eyes of its youthful audience.

The first session was held in April 1987 at Clayton High School in suburban St. Louis. It was so successful that principals at six other St. Louis-area



PHOTO: EED LALLU

David Lankford says business people who lead discussions "show students by example" that most business activities are ethical.

schools subsequently invited McKay and Lankford to give the workshop.

Now they have packaged the idea in a curriculum guide that enables others to duplicate the workshop. A session for as many as 200 students costs about \$475, mainly for printing and mailing costs. The professionals who lead the groups generally receive no honoraria, and lunch typically is paid for by a sponsoring organization.

The workshop has drawn praise from business leaders who favor adding ethical decision making to the high-school curriculum. "We have failed our young people if we do not give them the right foundation to make tough decisions,"

says William Kanaga, chairman of the advisory board of Arthur Young & Co., a leading accounting and consulting firm, and the immediate past chairman of the board of the U.S. Chamber of Commerce.

"If they [McKay and Lankford] can set up a model program, then replicate it across the country, I applaud them," Kanaga says. "This is an area that has been neglected too long."



"Kids today are forced to make tough decisions without the tools to do it," says the ethics workshop's developer, Linda McKay.

For More Information

For a copy of the curriculum guide for "Ethical Decision Making in the Workplace," you can write to Linda McKay, The Network for Educational Development, 6800 Wydown Blvd., St. Louis, Mo. 63105; (314) 727-3686, or David Lankford, P.O. Box 1155, Jefferson City, Mo. 65102; (314) 634-3511. Please include a \$10 check or money order.

The Ethics Resource Center, 600 New Hampshire Ave., N.W., Washington, D.C. 20037; (202) 333-3419, sells and rents video dramatizations for use in character education in elementary schools and for work-related values education in high schools. ■

Marketing Maneuvers

By Nancy Croft Baker

To encourage customers to call with orders, compliments, complaints, or requests for more information about products and services, small companies should consider installing toll-free numbers. Most phone companies now offer lower-priced, 800-number services specially tailored for small businesses.

Joseph Mancuso, founder of the New York-based Center for Entrepreneurial Management Inc. and publisher of the *Entrepreneurial Manager's Newsletter*, installed an 800 line when he learned his small firm's customers were asking for more information about his books and seminars than his answering service could supply. "With an 800 number, people are more likely to call you for information," he says. Mancuso trained employees to use such information calls to encourage callers to attend the firm's seminars or subscribe to its newsletter.

Many small-business owners "are a little intimidated" by what they think would be the high cost of signing up for 800 service, Mancuso says. "But you can install an 800 number for about \$100."

AT&T's 800 Readyline service, for instance, was created to appeal to small businesses, and it can be installed in a company's existing phone system.

Monthly fees for an 800 line are typically lower than the costs of accepting customers' collect calls, Mancuso says. The bill would depend on the distance and duration of the incoming calls.

Small businesses also receive volume discounts, which can be as high as 25 percent for a monthly bill over \$1,500. Mancuso, who buys 25 hours' worth of toll-free calls to his company per month, says: "Anytime you buy in bulk, you get it cheaper. A call is about 16 cents a minute coast-to-coast. The typical 800 call lasts four to five minutes, so that's only about 50 to 75 cents per call."

In addition, AT&T offers a bonus to businesses that subscribe to its 800 service—a free listing in its national directory of toll-free numbers. The directo-

Store manager Allan Gard of St. Moritz Chocolatier in New York City oversees a computer's confectionary imagery.



PHOTO: ALAN GORDON

ry, which sells for \$14.95, presents an extra advantage for small businesses when they use it to locate national suppliers. "You can start to find hard-to-find items, and you can often find cheaper supplies," says Mancuso.

By making an 800 number prominent in your direct mailings, packaging, letterhead, and advertising, he adds, you are likely to increase your sales, particularly among customers who find they have less and less time for shopping.

For more information on toll-free numbers and AT&T's national directory, call 1-800-426-8686.

Chocolate Faces

Impress your special customers or clients with a gift of chocolate—or a cake—bearing an image of themselves. St. Moritz Chocolatier, a New York-based candy company with eight outlets nationwide, has introduced a com-

To keep your customers coming back, give them something—maybe an 800 number, a chocolate face, a friendly feeling.

puterized system for decorating cakes and chocolates.

The company's computer digitizes either a photograph or a live video image taken by a camera attached to the computer, and then it instructs an icing device to lay fine dots of food coloring in narrow, compact rows atop a cake or a chocolate. This produces an image similar to a highly magnified TV picture.

Images of faces are produced in black food coloring. A one-pound chocolate can be decorated with a face in a little over an hour. The price is \$30.

St. Moritz plans to start licensing the technology to independent bakeries across the country so that they can imprint their own cakes. Prices would vary from bakery to bakery.

The company also fashions corporate logos out of chocolate. For a one-time fee of \$350, St. Moritz will craft a reusable mold and keep it on file. Then, upon request from a corporate client, St. Moritz will ship a chocolate logo in its own wooden box directly to the recipient. The client pays \$10 for a half-pound logo and \$17.50 for a one-pound logo.

That Happy Feeling

Consumers are more likely to make impulse purchases when they are in a good mood, according to a study by Management Horizons, a consumer-behavior research firm in Dublin, Ohio. They are more satisfied with the store, its employees, and its products when they are feeling happy. A good mood can positively influence preference for a particular store.

Participants in the study said that a store's personnel has more effect on their moods than the store's atmosphere. Unpleasant encounters with salespeople typically cause them to leave the store quickly and consider never returning. Pleasant encounters, on the other hand, can increase the likelihood of repeat patronage.

The study's participants said their moods were favorably affected when store employees displayed a friendly and caring attitude, showed that they knew the products, were available and identifiable, delivered prompt and attentive service, presented a clean appearance, and did not use high-pressure sales tactics. **NB**

Nancy Croft Baker is a Washington, D.C.-based free-lance writer who specializes in marketing and franchising issues.

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Shape Up Your Firm's Image

By Sandra Dark

An impressive identity package can be as important as the quality of your product or service.



PHOTOS: CHARLES THATCHER—BLACK STAR

In the spring of 1987, 160 students were enrolled in Highland Academy, a private school operated by Carlos Owens in Arlington, Texas. By fall, enrollment had grown to 220. Now operating at its capacity of 275 children, Highland turns away prospective enrollees by the score.

What caused the sudden surge in growth? "Part of it was that we were building a reputation," Owens says. "But the major part was the whole new image."

That new image is the change that his school adopted in the summer of 1987 to attract the clientele he was seeking. Like many other successful business owners, Owens learned that an impressive identity package—the visual image of the business shown in printed materials and on signs—can be as important as the quality of the product or service offered.

So he led his school through a metamorphosis, creating a new image and a carefully planned identity package. The school's name at the time—Lad and Lass—was replaced, and so were its "Sesame Street"-style school colors, which Owens says gave the school a day-care-center look.

What emerged was Highland Acade-

Carlos Owens created a sophisticated new image for his private school by changing its name and adopting a color scheme for everything from classrooms to clipboards.

my, with a striking new logo and a fresh, fully integrated color scheme that accurately portrayed it as a sophisticated educational facility for infants through sixth graders. "People look at us in a totally different way now," says Owens. "When parents walk into our office, it's almost as though they're thinking, 'These truly are professionals. These are people who deserve my respect.'"

"The purpose of an identity package is to state as clearly as possible the nature of your business," says designer Peggy Chaffin of Arlington, who developed Highland Academy's new image.

Almost any type of business should make a strong, well-defined impression on the public in order to be competitive, say experts on identity packaging.

Often, however, companies attempt to save money by shortchanging their images. Are they really saving? Probably not. Many experts say that a skillfully developed identity package—which typically would include the company's name, color scheme, logo, letterhead, and business cards—can result in long-term savings on advertising costs.

It can also give a company a polished, professional look that the buying public increasingly demands—even of mom-and-pop operations.

When Randa Wilson launched National Radio Rentals, a two-way-radio rental company in Oklahoma City, she was determined that her firm would project an image of professionalism. With that in mind, she consulted several successful business associates, and she chose Frank Fowler, a designer in Oklahoma City who specializes in developing image packaging for small businesses.

The cost of having her firm's identity package professionally designed amounted to about 5 percent of her promotion budget for the year. "It was minuscule, compared to what we got from it," Wilson says.

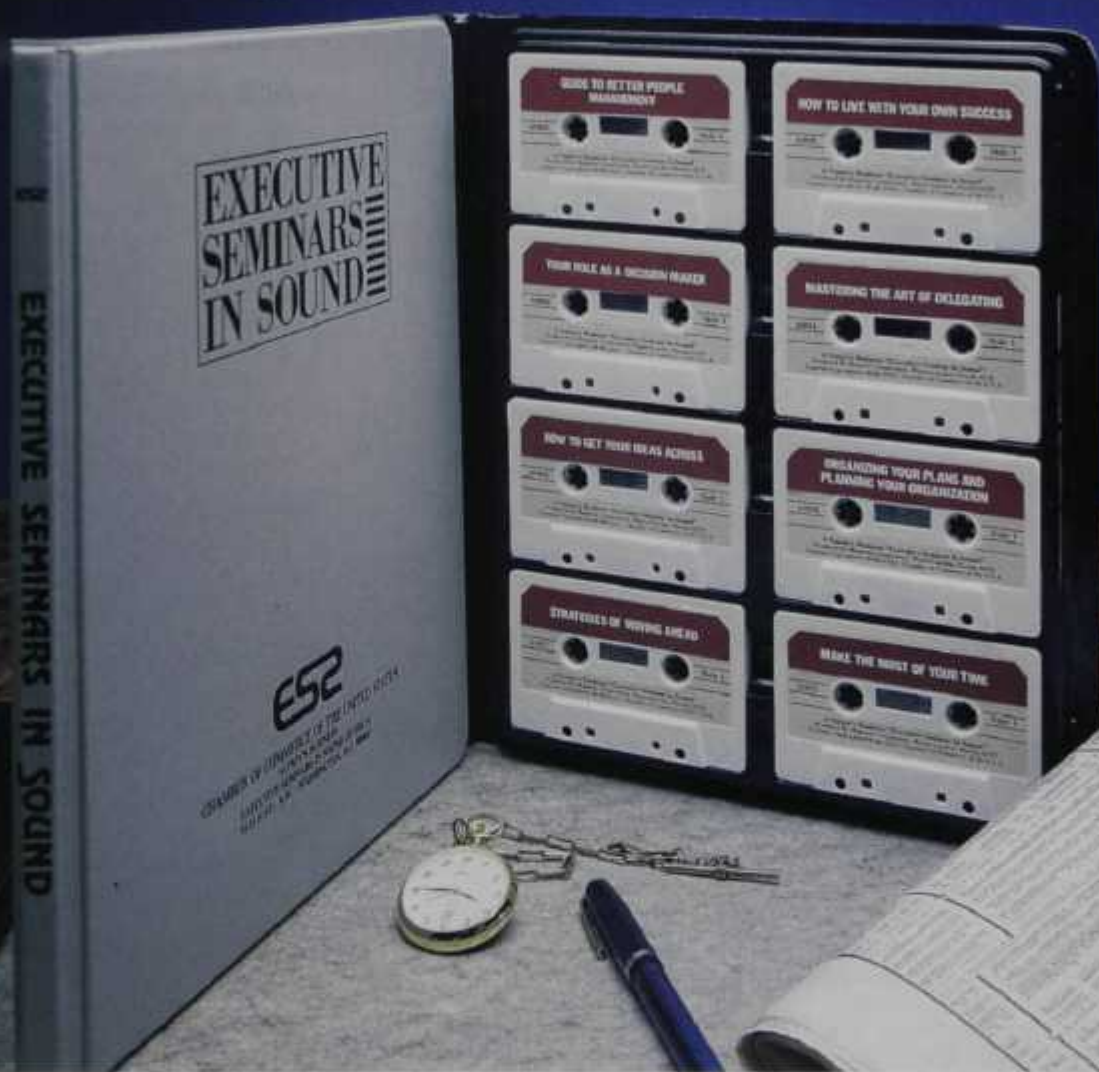
Image-design costs for small businesses can range from \$500 to \$15,000, depending on the area's economy and the size and content of the package. Although it isn't crucial to have your company's entire identity package designed at one time, designers recommend that you have a strategy in mind so that future identity-design efforts will appear to be part of a unified plan.

Several recommendations are particularly important to bear in mind when developing your company's image:

The name should say something

Sandra Dark is a free-lance writer in Norman, Okla.

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MANAGING YOUR BUSINESS

Shape Up Your Firm's Image

about your business. If it doesn't do so, a new name may be in order. Carlos Owens' school's name was changed from Lad and Lass to Highland Academy because it was felt that the new name would attract the school's preferred clientele—responsible parents who are particular and demanding about their children's education.

A change may also be in order if the company's current name has acquired a stigma. In 1986, Rick Brown purchased an Oklahoma City hardware business that had an unfavorable reputation in dealings with customers. The disgruntled customers did not change their attitudes about the company after the new owner took over. A year later, Brown changed his company's name to American Nozzle & Decal, and he had the identity package redesigned. "I wish I had done that when I first bought the business. I can hold my head up now" with customers, he says. "And our business has increased probably 500 percent since the change."

Your company may need a logo—a symbol that represents the business. Not everyone looks kindly on logos. "I personally feel that most good image design is symbolism incorporated with the name and the product or service offered," says designer Frank Fowler, "because if that isn't communicated, a larger advertising budget is required to get the message across as to what the company does."

Whether logos have become passé in recent years is an open question. "I think it depends on the firm," says designer Peggy Chaffin. "A logo works very well for service-oriented businesses, companies offering products, and specialty operations. But I don't think it's suitable for a professional office, such as a doctor or lawyer."

If you do use a logo, it should appear everywhere—on your sign, your stationery, your advertising—wherever your name is shown. Owens puts the blue Highland Academy logo on letterheads, school forms, newsletters, brochures, and myriad handouts such as pencils and fuzzy puffball critters.

When parents of prospective enrollees are shown the logo-emblazoned folder containing student documents, Owens adds, "They think, 'Hey, these people are organized.' And I feel that people want to be associated with an organization that has its act together."

Simplicity of design provides impact. Your company's whole design includes your business name, logo, address, and phone number on printed



Randa Wilson says the cost of an identity package for her two-way radio firm "was minuscule, compared to what we got from it."

materials and signs, and it also encompasses any description of what your business does. Keep that design simple, Chaffin says, "so it will be memorable."

"A complex design might look beautiful on paper, but it won't be remembered well. Then, repeat it as much as you can. Let that name come out again and again, so the public will become familiar with it."

Your distinctive design can be used in your advertising, on company vehicles, on packing cases, and on any other materials that leave your office.

Color and continuity add still more impact. Highland Academy stopped using gaudy colors that some said gave it a day-care-center image, and instead it adopted dark blue—often used in combination with light blue. Owens follows through with the color blue, even to providing matching blue clipboards for filling out forms.

Chaffin also recommends sticking with one color for the design if printing costs are a factor. "One color requires only one shot in the press. Highland Academy, for example, uses blue on cream stock for their letterhead."

Beware of image overkill. "You can overdesign and kill your business as easily as you can underdesign and not pick up the interest that you need," says Frank Fowler. An inflated image can cause a business to get in over its head if it promotes large-scale sales that the company cannot meet.

Image overkill sometimes occurs when a client is not realistic in describing the company to the designer. "You've got to be honest with your designer," Fowler emphasizes. "We've got to know exactly what you're talking about" in order to develop an identity package that will accurately portray a company.

For that reason, Fowler recommends that business people talk directly with designers, "even if you are working through an advertising agency. Then the designer won't be working with secondhand information or someone else's concept of what you want your business to project."

The designer must know the size of your company, your target market and marketing objectives, the quantity of product or service you will be selling, and whether you will market locally, regionally, or nationally. If you plan to expand your local company into a regional or national operation later on, the designer should know ahead of time. Otherwise, you might find yourself with an identity package geared strictly to a local market and not adaptable to a broader audience.

Besides creating a personalized design, her packaging expert made other useful recommendations for radio-company entrepreneur Randa Wilson. "Most of my customers call me the Radio Lady," Wilson explains, "and I finally let Frank Fowler make the decision on whether or not to put that on my business cards. He voted yes, and it has been a wonderful decision, because my customers don't always remember my name."

Owners and business consultants alike agree that a stylish image can help put a company on the map. Since Highland Academy acquired its eye-appealing new image, Carlos Owens says, "We've had people stop in who said, 'I've been driving by here for years and never knew you guys were here.' I don't think we could have attracted the quality clients we now have without the new image package." ■

To order reprints of this article, see Page 53.

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Oases Of Opportunity

By Steven Golob



PHOTO: JIM BRYANT—BLACK STAR

In a perfect world, nations' economies would be equally developed, and countries' labor and other production costs would be comparable. So there would be no need for protective tariffs or other barriers to trade. But in the real world of economic imbalances, countries impose duties, quotas, and other restrictions to protect their weaker industries.

Nonetheless, most of those countries also seek to stimulate trade in products produced by their competitive industries, in part by establishing areas where those industries can operate without paying import duties on the materials they use in manufacturing. The U.S. government calls them foreign-trade zones, and other nations call them free-trade zones.

Within these zones, no duties are assessed, and quotas are not applied to imported raw materials and unfinished goods. Such imports typically are transformed into finished products and then are shipped—also duty-free—to a third country. Or the finished product is shipped to the zone's host country, usually subject to tariffs, though such duties can be lower than the tariffs that would have been applied to the components of the finished product.

Use of duty-free zones here or abroad can be a highly effective cost-reduction tool for U.S. businesses whose products require imported parts or are labor-intensive. Berg Steel Pipe

An employee of Berg Steel Pipe Co. turns sheet steel into large-diameter pipe. Berg lowered its customs-duty bills by locating in the foreign-trade zone at Panama City, Fla.

Co., for example, probably would not be in business in the U.S. today if it were not for foreign-trade zones.

Several years ago, Berg Steel Pipe, in Panama City, Fla., was forced by a quirk of the U.S. tariff system to make a fundamental business decision. The firm had been established "to fill a niche in the [American] market for some specific grades and sizes of large-diameter pipe," says Carl Seigler, the company's controller. Most of the steel plate that Berg fabricated into pipe was purchased from U.S. manufacturers, says Seigler, but a substantial percentage of the plate was imported. This put Berg at a severe competitive disadvantage with its foreign competitors because of what Seigler calls "an upside-down duty."

Known in trade jargon as an inverted tariff, it occurs in instances when the import duty on a finished product is lower than the tariffs on the raw materials or components that go into the product. For Berg Steel Pipe, the duty was 6 percent on steel plate and 1.9 percent on pipe.

Since Berg is owned by West German and French companies, manufacturing easily could have been moved back to Europe, with finished pipe then exported to the U.S. subject to the 1.9 percent duty. But the company chose instead to spend \$20.5 million to build a state-of-

Companies whose products require imported parts or are labor-intensive can cut manufacturing costs by using duty-free zones.

the-art plant in the general-purpose zone at the Port of Panama City, Fla. This arrangement allows Berg to import steel to the zone duty-free, make it into pipe, and ship it at the finished-product duty rate to the firm's principal U.S. customers—oil and gas producers located along the Texas and Louisiana coasts of the Gulf of Mexico.

Duties similarly hampered the international competitiveness of Smith Corona, of Cortland, N.Y. Several years ago Smith Corona found that the duty on typewriter parts it had to import because they were unavailable from U.S. suppliers was killing the company's manufacture of portable electronic typewriters. Yet fully assembled typewriters from Japan and elsewhere were entering the U.S. duty-free.

Drastic cost-cutting moves a few years earlier had failed to lift the company out of the red. What saved the firm was the U.S. government's designation of the Smith Corona plant as a foreign-trade subzone. This status enables Smith Corona to import parts, use them in typewriters made in the subzone, and sell the finished goods in the U.S.—all duty-free. Today, a healthy Smith Corona is holding its own in competition with Japanese typewriters in the U.S. and may start competing with the Japanese abroad.

Foreign-trade zones have existed in the U.S. since 1934, and their popularity has increased steadily since the early 1970s, says Julie A. Sio, administrator of the nation's largest zone, at Port Newark/Elizabeth, N.J.

Currently, there are about 150 general-purpose zones and 140 subzones in operation, and applications are pending at the Department of Commerce for about 70 more zones. Over 70 percent of the approximately 2,100 companies using these zones are small and mid-sized businesses, Sio estimates.

U.S. companies of all sizes also have saved on manufacturing costs by having labor-intensive work done at zones in foreign nations, where labor costs are relatively low, before shipping the finished products to customers around the world. Even when the customers are back in the U.S., it still can pay for a U.S. manufacturer to include a for-

Steven Golob is a Washington-based free-lance writer who specializes in trade issues.

MANAGING YOUR BUSINESS

Oases Of Opportunity

sign zone in the assembly process.

Small and midsize firms often can find service companies within foreign zones that will pick up unfinished merchandise in the U.S., finish the goods in the zone, then ship the finished goods to the U.S. company's customers anywhere in the world.

One such service company is Minerva Research Association, or MRA, which has an electronics assembly plant in the Santiago Free Trade Zone, near the northern coast of the Dominican Republic.

Burt Yawitz, who runs MRA, notes that assembling a product at far less cost than in the U.S. is just one service that MRA offers prospective customers. "Most people find it difficult to deal directly with a factory offshore," he says. "The logistics to them seem like an insurmountable hurdle. From our office in New Rochelle, N.Y., we can handle all of the exporting and importing of their products."

The Dominican Republic's 20-year-old zone program is flourishing. There are now 11 zones in operation, 10 under construction, and eight on the drawing boards. Most of the work done in the zones is on clothing and textiles.

The world's biggest zone work force is in Mexico, which has some 350,000 people employed in its version of free-trade zones, called the "maquiladora" industry. Foreign companies in Mexico's maquiladora industry aren't assessed duties on goods shipped into their factories in Mexico, though they are taxed on the value added to those goods.

Mexico's maquiladora workers account for 65.6 percent of all zone workers in Latin American countries. Bra-

zil's zone work force is second, with 16.5 percent; the Dominican Republic is third, with 9.4 percent. All other countries account for 8.5 percent of Latin American zone workers.

Worldwide, the second-largest zone work force—after Mexico's—is in Singapore, which has more than 200,000 such workers. South Korea, with 140,000 in its zone work force, is third and is followed by Hong Kong, Malaysia, and Taiwan.

Among countries whose zones specialize in one industry are Mauritius and Jamaica; approximately 90 percent of both countries' zone workers are in the textile and clothing industry. Electrical and electronics products are made by more than half of all of Mexico's maquiladora workers, as well as by over 50 percent of the workers in zones in Malaysia, Taiwan, and Barbados.

At the moment, zones in Europe are receiving special attention as the European Economic Community moves toward the goal of eliminating barriers to internal trade by 1992. Some who fear that an economically united Europe will exhibit protectionist tendencies say that European zones could serve as ways for companies to establish a presence in Europe.

The Shannon Free Zone adjacent to Shannon International Airport, on the west coast of Ireland, is highly rated by experts. Among its many American success stories is Wright Investors' Service, of Bridgeport, Conn. Wright set up shop in Shannon last November with a leased telephone line, 30 computer terminals, and 60 employees to service an electronic database back in Connecticut. Wright now expects to have 215 employees there by 1992.

Peter Donovan, Wright's president,

explains why the financial-services company set up its telecomputing operations across the Atlantic: "We found ... that, while it was difficult for us to get qualified people here in Connecticut, we could get all we really needed in Shannon. ... The educational system in Ireland is excellent. They turn out people with financial backgrounds and computer backgrounds. ... They are not particularly cheap by our [U.S.] standards. When you figure in all the benefits, we are paying about what we would be paying people here."

Small and midsize firms of all types should consider trade zones "and not be daunted" by the notion of using them, says Sio of Port Newark/Elizabeth. For export-minded companies, the savings that can be achieved from use of such zones can be the difference between making profits and taking losses. **■**

Points To Consider In Choosing A Zone

Among the many things to keep in mind when you are choosing a foreign-trade zone in the U.S. or a free-trade zone abroad is location. Most firms will want to choose a zone close to their own or their largest customer's headquarters. To locate zones in your geographic area of interest, contact Jean Ramirez, National Association of Foreign-Trade Zones, International Square, Suite 400, 1825 I Street, N.W., Washington, D.C. 20006; (202) 429-2020.

Among other considerations in choosing a zone:

- Restrictions on duty-free imports of raw materials and unfinished goods needed in the production process.
- Wage levels, sophistication, and size of the local labor force.
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- Transportation facilities.
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Temporary Solutions

By Meg Whittemore



PHOTO: © SERP SEITZ-WOODEN CAMP

The complaint has been voiced for decades and continues to be heard everywhere from corporate offices, banks, accounting firms, hospitals, law firms, and factories to the federal government: Good, reliable, full-time clerical workers and support staff are hard to find.

"There is a chronic shortage of skilled clerical and technical help in this country," says Samuel Sacco, executive vice president of the National Association of Temporary Services, in Alexandria, Va.

For Marilyn Ounjian and other entrepreneurs, however, that shortage has spelled opportunity and success. Ounjian is the founder and chief executive officer of Careers USA, an 8-year-old temporary-employment franchise based in Philadelphia. Careers USA logged \$10 million in sales last year, and Ounjian says she expects the company to do at least \$15 million this year.

Ounjian's firm is one of many that have prospered in the burgeoning temporary-employment field. About 9 of every 10 companies and institutions currently turn to temporaries to complement permanent staffs, the National Association of Temporary Ser-

Companies' needs for reliable, full-time clerical workers and support staff spell opportunity for firms that supply temporary workers.

vices says, and the number of temporary workers now exceeds 6.5 million. The association says the industry has grown an average of 18.9 percent a year since 1970. The increase has been spurred by, among other things, the growth of the service sector of the economy and the preferences of many workers for flexible working hours.

Careers USA caters to companies that need large numbers of clerical and office help. Ounjian attracts qualified applicants not only through traditional methods such as advertising but also, she says, by doing "whatever we can to find able-bodied people who don't normally think of going to a temporary service." That approach takes her to job fairs, colleges, vocational schools, welfare offices, unemployment offices, senior-citizen and retirement homes, community centers, and churches. Ounjian says, "You have to seek out the applicant today, whereas before, the applicant may have sought you."

Ounjian started franchising in late 1987 and now has 10 franchises in Pennsylvania, New Jersey, New York, Florida, Georgia, and Maryland. Franchisees invest from \$129,000 to \$154,000 to open

an agency, typically in a mall or retail center. The royalty fee for Careers USA is 9.5 percent of gross receipts. Although the percentage may appear high, Ounjian points out that the franchisee receives from the head office a full support system, which includes payroll processing, billing, invoicing, and tax calculations.

Many agencies offer temporary employees across a wide range of job skills. Some agencies, for example, can supply law firms with lawyers and legal support staff. "Busy attorneys who are swamped with heavy trial activity use temporary lawyers as case workup assistants and as backups in court," says Louise Hackett, founder of Legalstaff, a franchise that offers law-firm placements. Hackett, a former legal secretary, says that using temporary attorneys lets a firm evaluate possible candidates for permanent jobs.

There's a serious shortage of experienced law-office personnel, Hackett says, partly because the work is demanding and the turnover rate is high. She notes, however, that "law firms are among the highest-paying positions in the office field, and the market is immense." It also is growing. By next year, says the American Bar Association, there will be about 400,000 law firms in the country, or about double the number that were operating in

Meg Whittemore is a Washington, D.C.-based free-lance writer who specializes in franchise topics.

The problems of finding able employees—from file clerks to trial attorneys—are being solved increasingly by franchised firms that supply temporary workers.

1980. The figures indicate there will be "about a million attorneys," Hackett says, and they "will need top-quality personnel—some 2 million people," because each lawyer requires, she says, about two people in support positions.

Legalstaff, which is based in Sacramento, Calif., and has branch offices in San Francisco and Mountain View, started franchising last year. One franchise has been opened, in San Diego, and Hackett expects 11 more outlets to be opened by year's end. Typical start-up costs average about \$55,000—a \$25,000 franchise fee, \$10,000 in office costs, and a \$20,000 line of credit to cover temporary-employee payrolls. A sliding royalty fee starts at 8 percent of gross monthly income and declines to 4 percent as receipts increase.

Besides the law, other professions that are especially promising now for temporary-employment companies and

for their "temps" include medical and technical fields. Staff Builders, headquartered in Lake Success, N.Y., serves the \$7-billion market in home health care and hospital staffing—a market that is expected to grow 15 to 20 percent annually through the 1990s. Stephen Savitsky, chairman and chief executive officer of Staff Builders, says, "We provide highly qualified health-care personnel to patients at home and to hospitals and nursing homes that need supplemental staffing."

As U.S. companies strive to cope with labor shortages, rising labor costs, and the pressures for increased productivity, the demand for temporary workers is certain to remain strong, and the window of opportunity will be wide open for franchises positioned to serve this market. **MB**

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How Women Succeed As Entrepreneurs

Women's Strengths

Even though you may not like having a woman boss, a new study indicates that you may learn more from her than you would from a male boss.

Researchers led by Edward B. Klein, a professor of psychology and psychiatry at the University of Cincinnati, surveyed 265 professionals in health care, education, and management who were members of 29 small groups at seven leadership-training conferences. Sixteen of the groups were led by men and 13 were led by women.

"The women were more effective as leaders," Klein says. Although the men leaders were older and more experienced in their fields, the women leaders appeared to be better at helping group members learn about such things as organizational dynamics and how a group affects a task. Klein says that in evaluating their group learning experiences, he found that participants in the women-led groups gained more knowledge that they were putting to use back at their jobs.

Klein cites two reasons for the women's effectiveness. One is that the groups' members, like many people, were not used to women in positions of authority and found it psychologically upsetting, and their discomfort forced them to focus their attention on the task at hand.

Second, women in our culture are trained to be more aware of relationships than men are. As a result, says Klein, they are more skilled in motivating groups to work together.

Klein thinks his study argues for having more women in leadership positions. At a given moment, a woman boss may make you "furious," Klein says. But when given time to reflect, he adds, even those people who don't like having a woman boss "honestly report that they learn more."

—Sharon Nelton



PHOTO: LINDA DUE SCOTT

Principles To Grow By

By Russel R. Taylor

How-to books on entrepreneurship and small-business management courses abound—many of them just for women. But unless an entrepreneur follows certain principles, she may not succeed.

In a study I did of 15 extraordinary women entrepreneurs—from stockbroker Muriel Siebert to cosmetics powerhouse Estée Lauder—I discovered five principles common to all in starting, organizing, and growing successful enterprises. Here is what I learned:

1. *They obtain experience at an early age.* Studies show that most well-known business founders get some business experience during their youth. This is when the early spark of entrepreneurship begins to glow.

Successful women entrepreneurs are no exception. Lillian Vernon Katz, founder of the Lillian Vernon Corp., the mail-order house, worked after school in a candy store. Faith Popcorn of

By spotting what business travelers want, Maryles Casto turned her experience as a flight attendant into a multimillion-dollar travel agency.

BrainReserve, a New York market-research firm, clerked in her grandfather's haberdashery, and advertising entrepreneur Lois Wyse worked as a newspaper reporter as a teenager.

2. *They seek out "niche" opportunities.* They are market-focused, perceiving a customer need for a product or service.

Lane Nemeth, for example, saw a great void in the character of children's toys and found her niche in producing and selling toys that were educationally oriented. Her Martinez, Calif., company, Discovery Toys, now does more than \$60 million in yearly sales.

As a flight attendant, Maryles Casto learned a great deal about the needs and wants of business travelers. In starting Casto Travel, a \$40-million-a-year travel agency based in Palo Alto, Calif., she capitalized on what she had learned by offering services beyond those of her competitors. "I make sure my employees thoroughly understand what happens when traveling by conducting seminars and organized tours to airports to see what goes on behind the scenes—such as food service, bag-

Russel R. Taylor is chairman of the Business Department and director of the H.W. Taylor Institute for Entrepreneurial Studies at the College of New Rochelle, in New Rochelle, N.Y.

The strategies common to many successful women entrepreneurs are discussed in this roundup, which also explores women's leadership talents and their prospects for becoming top managers.

gauge checking—so they will know everything about booking reservations," she says.

3. *They build strong teams.* Women who start and preside over successful enterprises are usually talented, ambitious, and hard-working individuals who demand much of themselves and set high standards of excellence. They surround themselves with associates from whom they expect the same characteristics they see in themselves.

Instead of paying two ordinary people each a \$25,000 salary, "I would rather find one person who will work as I do and pay that person \$50,000," says Dorothy Brunson, who owns radio stations in Baltimore, Atlanta, and Wilmington, N.C.

4. *They make friends with their bankers and suppliers.* In 1950, when Rose Totino, founder of Mrs. Totino's Pizzas, wanted to open her first little shop in Minneapolis, she called the vice president of a local bank to ask for a \$1,500 loan. He said, "Pizza? What's that?" So she baked him one and took it to him the next day. "He loved it, and I got the loan, pledging our 3-year-old car as collateral," says Totino.

A good relationship with suppliers is equally vital. Many new businesses run short of cash paying their bills at the normal due dates. Because suppliers tend to view a start-up customer as an opportunity, they will often permit delayed payment of 30 to 60 days to help that new customer. Sometimes suppliers are willing to hold on to your supplies until you need them, says Lillian Katz. "This keeps the goods in their inventory, not yours—and that helps your cash flow."

5. *They learn to understand financial statements.* Without some accounting literacy, anyone starting a new enterprise is asking for trouble. Josie Natori of the Natori Co., a New York lingerie-manufacturing company, says she could never have survived her venture had she not taken business courses—especially accounting—in college.

Lillian Katz and Lane Nemeth admit that the major crises each experienced stemmed from insufficient knowledge of financial matters. The message is clear: If you don't understand accounting, hire a capable accountant and be-

gin to learn accounting yourself.

Some people think that observing principles restricts creative effort rather than guiding it and making it richer and more profitable. Some entrepreneurs with great creative talent also stumble and fall, and the sad record shows that more than half of new business starts in America do not make it through their first four years.

New business founders can follow the important steps offered in how-to books, but unless they also observe the fundamental principles outlined above, the life expectancies of their enterprises are likely to be short.

Excerpted with permission from Exceptional Entrepreneurial Women: Strategies for Success (Quorum Books, a division of Greenwood Press, Westport, Conn.) © 1988 by Russel R. Taylor.

To Agree Or Not Agree



ILLUSTRATION: MARGUERITE LEE
—EUCALYPTUS TREE STUDIO

A recent study of attitudes toward women in management disclosed widespread agreement between men and women on some points and major disagreement on others.

Swain & Swain Inc., a New York outplacement firm, surveyed 134 managers—61 men and 73 women. More than 80 percent of each group agreed that women are making gains in securing management-level jobs and that companies will be forced to promote competent women because of labor shortages.

However, 72 percent of the men but only 31 percent of the women said they believe the future holds equal opportunities; 56 percent of the men but only 23 percent of the women believe women can become chief executive officers on performance alone; and 58 percent of the men but only 34 percent of the women believe companies will change voluntarily to meet the needs of the changing work force. Said one woman

respondent: "There will continue to be progress for women, mostly in smaller companies, women-owned businesses, retail-type industries, and in divisions of large companies. The pace overall will continue to be slow because men will continue to overlook women, usually not overtly. The pace will quicken only if women continue to press for opportunities. In the world of power, nothing is given voluntarily."

Seminars For Leaders

Oct. 16 is the deadline for applying for the 1990 Leadership America program sponsored by the Foundation for Women's Resources. The program selects 100 talented women to participate in a year-long series of seminars dealing with national and international public policy.

The 1990 seminars will be in Los Angeles, St. Louis, and Washington. Tuition for next year's program has not been set; the cost this year is \$3,600.

For further information, contact Leadership America, 803 Franklin St., Alexandria, Va. 22314; (703) 549-1102.

Quoteworthy

"'Mommy track' is not the point. The question is whether there is a job for Daddy in the future. I suggest that women are soon going to be in the driver's seat of virtually every corporation. It's already happening, when you look at the start-ups in the service firms which now dominate our lives.

"Only 3 percent of us are going to work in factories by 2001. . . .

"Mommy in the driver's seat [and] Daddy at home washing the dishes is the fate that we males face in the years ahead."

—Tom Peters, author of *Thriving on Chaos*.

Chicken That Packs A Punch

By Michael Barrier

Flamboyant Al Copeland, a New Orleans "tough kid," has pushed his peppery poultry far beyond the bayous.

Alvin C. Copeland grew up a poor boy in New Orleans. The child of a broken marriage, he was raised by his grandmother in a housing project. "I was a tough kid," he says, "but I did know right from wrong." One day more than 30 years ago, the New Orleans police forced him to spend several hours contemplating the difference between the two. Thanks perhaps to that "turning point in my life," he has emerged, at 45, with a net worth he puts at around \$200 million.

He was 12 or 13 years old when "I stole a bicycle. I didn't feel like walking, so I stole this bike, and I rode it to my house, which was several miles away." Then he rode the bike to a drugstore. "I park the bike on the outside, and I'm sitting at the counter, getting a Coke, and the cops come in and put their hands on me and say, 'Son, is that your bike out there?'"

After they arrested him, the police put him in "a little box, like a closet. I guess it was 4 or 5 feet wide. They called my brothers and told them to come down and get me. I stayed in that

box for three or four hours, and I made my mind up right there, I was never going to do that again. This was not what I had as an idea of my future."

What Copeland's future held instead was a New Orleans fried-chicken store he called Popeyes; it opened in June 1972, selling chicken with a peppery flavor that echoed Louisiana's back-country cuisine. Now he presides over more than 700 Popeyes Famous Fried Chicken and Biscuits stores, franchised and company-owned, as well as more than 1,300 Church's Fried Chicken stores. Together, the two chains' systemwide sales topped \$1 billion last year. Among the chicken chains, only Kentucky Fried Chicken, with almost 5,000 U.S. stores (plus thousands more in other countries) and \$4 billion in sales, is bigger than Copeland's.

The parent company for both Popeyes and Church's is Biscuit Invest-

ments, and Copeland owns 95 percent of that private corporation. (He will not disclose who owns the remaining 5 percent.) Copeland also owns a separate private company called My Favorite Year, which runs seven full-service "Cajun-American" restaurants called Copeland's of New Orleans. He has no plans to take his companies public. He is still, in many ways, a "tough kid," not least in his determination to remain independent. He finally started sharing the management load in 1987 by hiring three outsiders for important jobs with Popeyes, but he remains chairman and chief executive officer. "I'm always going to direct them," Copeland says. "I believe that if my entrepreneurial spirit was out of the company, it wouldn't be as successful."

Copeland has always liked to be out front. When he was a ducktailed teenager, he drove a falling-apart '52 Plymouth station wagon—but he painted it fire-engine red, and "a friend of mine who was in a commercial-art class painted Elmer Fudd on one side with the shotgun, and the Road Runner on the other side going 'beep beep.'"

Today Copeland is even showier, but at a far more exalted level: He owns a dozen cars, bearing names such as Rolls-Royce, Lamborghini, and Porsche. Instead of driving race cars, as you might expect, he drives a high-

Al Copeland—seen here in a company-owned New Orleans store—has given Popeyes a Cajun-flavored menu that includes red beans and rice and buttermilk biscuits.



PHOTO: T. MICHAEL KEZIA



Zip

LESSONS OF LEADERSHIP

Chicken That Packs A Punch



powered, 50-foot "superboat" of the kind that costs \$1 million or so, and he competes in offshore championship races against such opponents as actor Don Johnson.

For 10 years, he bedecked his home on Lake Pontchartrain with Christmas decorations so extravagant—500,000 lights, a three-story snowman, two-story angels—that gawkers descended on the neighborhood by the thousands, creating huge traffic jams. When a neighbor's lawsuit forced him to scale back the decorations (he fought the case all the way to the U.S. Supreme Court), Copeland transferred them to his office building, which is wedged be-

selves, through their rich fabrics and strong patterns and colors, and still seem impeccably dressed. He has mastered a technique that few "tough kids" ever get the hang of: how to show off.

He has come a long way from that housing project, where he saw "poor kids with no socks, no shoes, no clothes. I decided that was not going to happen to me. I decided to quit school and make a living and try to get into something so that I could live better. I didn't know what it was."

After leaving school at 16, he got a job as a soda jerk. "There were about half a dozen guys, serving hot dogs and

bottles in each hand, and I was blowing him away. So then he was chasing me, and he couldn't catch me. That place got the greatest service on earth, for \$1.05 an hour."

Later, Copeland worked for a brother, 10 years his senior, who had already put together a modest fast-food chain of his own: He owned a half-dozen small doughnut shops. Copeland saved money to go into business for himself, and at 18, he sold his car to raise capital and opened his own one-man doughnut shop; he was his brother's first franchisee.

Copeland had spent several months scouting for a location, and he picked right: Sales were \$1,500 his first week, and his store quickly had higher volume than any other in the chain. And, as before, he hustled. "I learned early on that you've got to do a good job for the customers or they don't come back," he says. "If you came to the window of the doughnut shop, I was there, smiling at you—'Yes, sir, can I help you? What would you like today?'"



PHOTO: T. MICHAEL KEZIA

Copeland has put his name on a seven-unit chain of full-service "Cajun-American" restaurants—like this one in New Orleans—that offer

such staples of Louisiana cuisine as blackened redfish. Copeland is shown at the restaurant's shoe-shine stand with employee Melanie Speicher.

tween a freeway and some railroad tracks in suburban New Orleans, and doubled the number of lights, to 1 million. Now the sightseers' cars line up there, and Santa Claus descends nightly in Copeland's helicopter, the Chicken Chopper.

Stepping into Copeland's office, with its high-tech plastics, gleaming wood, concealed lighting, and remote-controlled, gold-colored venetian blinds, is a little like stepping onto the bridge of a starship, or maybe into a luxurious pinball machine; but the room is, nevertheless, harmonious and richly appointed. Likewise, Copeland can wear clothes that call attention to them-

beer and Cokes and stuff like that. I was just working like everybody else, but this one guy, a Cuban fellow, was really working hard. When I got my first check, we went over to the bar and had a drink, and I said to the guy, 'Why do you work so hard?' He looked at me and said, 'I work the hardest because I'm the best. Nobody's better than me.'"

That boast stuck in Copeland's craw. He started observing his rival's tactics—the Cuban held two bottles in one hand, for instance, and filled two glasses at once. "I started picking up a little bit of speed," Copeland recalls, "and before you know it, I was doing three

For the next 10 years, Copeland remained in the doughnut business, doing well, but on a small scale.

Then he noticed the success of a nearby fried-chicken store. He opened a chicken store of his own, Chicken on the Run, financing it out of his doughnut profits. His chicken, Copeland says, had no personality; "it wasn't what I really wanted to do," which was to sell chicken with a distinctive Louisiana touch.

Copeland himself is not Cajun—that is, not a descendant of the French-speaking Acadians who settled along Louisiana's bayous in the 18th century, after the British expelled them from Nova Scotia. His first wife's family was Cajun, though: "My wife's father was pure Cajun; he used to paddle his pirogue [a hollowed-out cypress log] down the bayou to go to school. He cooked great food."

Cajun cooking typically combines shellfish and rice in dishes with strong flavors and spicy seasonings. When he was planning Chicken on the Run, Copeland wanted to give his chicken some of Cajun food's peppery tang, but he wondered if he shouldn't use a milder recipe instead.

"Before I went into business," he says, "I gathered about a dozen businessmen. I cooked both products, and everybody loved the spicy chicken, but they talked me out of it. They said, 'You'll never be able to sell it to kids.' I

didn't want to lose the money on this deal, so I looked at those guys, and I said to myself, 'These guys are smarter than I am, they've got a lot more money than I have, they're older and wiser.' So I agreed."

Chicken on the Run offered the spicy chicken, Copeland says, but only as a special order—"I made people wait 15 minutes for it. It wasn't fast food. But I noticed that the people who liked the spicy chicken were faithful to it; they'd come back and wait."

After six months, Chicken on the Run's sales were only \$1,100 a week—\$900 short of profitability. Copeland was going to close the place down and make it a doughnut shop, he says, but "I didn't want to accept the failure." He decided to give the store two weeks under a new name, with spicy chicken at the top of the menu. He closed Chicken on the Run and reopened as Popeyes. (He took the name from the Gene Hackman character in *The French Connection*, but a few years later, after King Features Syndicate objected, he got a license to use the cartoon sailor.)

The first week's receipts at the new Popeyes were \$1,500; the second week's were \$1,800. Copeland decided to give Popeyes another week, "and the next week we busted it," with sales of \$2,100. He opened his second store a little over a year later, after the first store's sales had passed \$5,000 a week.

Copeland financed his early growth himself; he got no help from banks until he had opened two dozen stores, and he didn't start franchising until he had around 50 company-owned stores. Copeland has always been loath to sacrifice control of his company—to lenders or to franchisees—except when that was necessary for growth, when "there had to be a compromise somewhere."

Last year, in his boldest gambit, Copeland mounted a takeover bid for Church's, a publicly held company based in San Antonio, Texas; its stores were concentrated in inner-city Southern neighborhoods. Church's had been struggling for years, and last February, its management surrendered.

The Church's name will remain on 700 to 800 stores, Copeland says; an additional 400 stores will be converted to Popeyes, and the rest will be closed. In this odd situation, two competing brands of chicken will live under the same corporate roof.

The oddity is more apparent than

real, Copeland says, because "there's a customer base for Popeyes chicken, and there's a customer base for Church's." Essentially, Copeland will use Popeyes and Church's to mount a pincer attack on Kentucky Fried: Popeyes chicken is spicier than Kentucky Fried, Church's is blander, and if Copeland is right when he says his two chains have distinct clienteles, they may be more complementary than competing.

Copeland borrowed around \$450 million to buy Church's and remake it in his image, and to reduce that debt he must move quickly to sell a large number of the 1,000 company-owned

meet company standards won't be allowed to buy Church's outlets, he says.

So the next few years could be a little rough. Copeland must find ways to reduce his debt, digest Church's, and raise the performance of his Popeyes franchisees, all at a time when the fast-food industry is widely considered overbuilt. In addition, the chicken chains must look over their shoulders at the growing number of chicken items on the hamburger chains' menus.

Fortunately for him, Copeland is a man who not only has a lot of drive, but also operates with a certain cunning.

Back when he was a teenager, one of his cars was a '54 Pontiac convertible



A devotee of offshore powerboat racing and winner of many titles, Copeland drives the "Popeyes Fried Chicken/diet Coke Superboat."

Church's stores. Some stores, already closed, can be sold simply as real estate, but Copeland will want to sell many stores to franchisees, including some current Popeyes franchisees.

The pressure to sell comes at a time when he is tightening the reins on his franchisees, who operate more than 600 of the Popeyes stores. "We have been more aggressive in the last few years in doing that," he says. "We're shaking out the bad people." The Popeyes stores have sometimes been criticized for not being as "squeaky clean" as other chains' stores, and, Copeland says, "I don't want that reputation." Popeyes franchisees whose stores don't

that he bought for \$75. After the engine breathed its last—"the manifold was glowing red, and it coughed like it was going to blow up"—he walked and rode the bus. "This went on for a week or two, and I thought, man, I wish I had that car back. Then I got this idea. I got the battery charged, cranked up the radio, and pushed the car out in the middle of the street, by myself."

In a ploy that he was to use repeatedly, Copeland stood by the car and waved down a passing motorist. "This guy would pull up next to me and I'd say, 'Man, it's an automatic transmission, it's a tub, it takes a while to get going.' So he'd push me for four or five miles, and then his engine would get hot, and he'd take off. I'd wait till my car finished coasting, and get out and get me another guy. I went all over town like that. I used to go to the drive-in movie; once I was in line, they had to push me or go around me. It was your problem if you were behind me."

In business, even more than at the drive-in many years ago, Al Copeland expects a lot of other people to have that problem. **16**

The Push To Trim Capital-Gains Tax

By Joan C. Szabo

When Darrell Wilburn decided to start his own computer-electronics company in 1977, he waited until he was sure that Congress would enact then-pending legislation to lower the tax rate on capital gains. He knew that a lower rate would make it easier to attract investors to his new venture.

Just before Wilburn launched his company, the top capital-gains rate was

Sunnyvale, Calif., now has annual sales of over \$6 million.

Another consideration for Wilburn was the 18 months he went without pay while starting his business. He was willing to make that sacrifice, he says, because he knew there would be a long-term payoff when he sold his firm. Now, however, he is worried that his return will be eaten up by hefty capital-gains taxes if he ever sells his firm.



PHOTO: LINDA SUE SCOTT

Darrell Wilburn, center, president and founder of Step Engineering, in Sunnyvale, Calif., says a lower capital-gains rate encouraged him to

start his company. With him are Mitra Naaseh, hardware engineer, and Michael Phillips, engineering manager.

a whopping 49 percent. In 1978, Congress cut it to 28 percent, and three years later the rate was reduced to 20 percent. Tax revenues rose, more jobs were created, and more people started and invested in small businesses like Darrell Wilburn's.

There's no question about the impact on his plans, Wilburn recalls: "If Congress had not lowered the tax rate on capital gains, there would be no company." His firm, Step Engineering, in

That worry stems from the turnaround in the capital-gains-tax situation. As a result of the 1986 Tax Reform Act, capital gains now are taxed at the same rates as ordinary income. For individuals, the top tax on gains has gone from 20 percent to 33 percent—a 65 percent increase.

The higher rate is not only discouraging the growth of small-business startups but is also depressing federal and state tax collections and is weakening the U.S. competitive position, say those who actively support legislation to restore a lower capital-gains rate. Backers of the effort include the Bush administration, a bipartisan group of

lawmakers, and business organizations such as the U.S. Chamber of Commerce.

David Burton, manager of the Chamber's Tax Policy Center, says the organization supports a "reduction in the capital-gains rate to 15 percent with a reasonable holding period. We believe that all capital assets, whether owned by corporations or individuals, should be eligible for the capital-gains differential."

Burton's position reflects the views held by the many advocates of a lower rate, and those views are embodied in several of the bills introduced in both the Senate and the House. Congress this summer may begin drafting a final bill for floor consideration, say congressional tax experts. "There is a very good opportunity to pass a capital-gains differential this year if the president holds firm and the business community communicates its support for the legislation to Congress," Burton says.

The measures vary in details such as top rates, holding periods, corporate eligibility, and types of assets covered. The Bush administration's proposal, for example, would lower the top capital-gains rate to 15 percent for individuals, but corporate capital gains would continue to be taxed at the ordinary rate—generally 34 percent. Taxpayers with adjusted gross incomes of \$20,000 or less would pay no capital-gains tax.

The president's approach would include land owned by individuals but exclude business assets, such as depreciable and other real property used in a trade or business, and collectibles, such as works of art. While that measure would not go as far as most business groups recommend, those organizations view the president's leadership as critical and hope that he will be willing to go further on specifics in the inevitable compromise talks on the many differences in the pending bills.

Legislation sponsored by Rep. Bill Archer of Texas, the senior Republican on the House Ways and Means Committee, would cover corporate capital gains. His bill, H.R. 1601, would establish a flat capital-gains tax of 15 percent for individuals as well as for corporations. Besides equity investments, the bill covers business assets and real estate. Assets would have to be held for

Nation's Business intern Susan Kauffman, a graduate journalism student at the University of North Carolina, contributed to this article.

Legislation to reduce the tax rate on capital gains is supported by the Bush administration, a bipartisan group of lawmakers, and leading business organizations.

over a year to be eligible for the rate.

In the Senate, Republican Robert Kasten of Wisconsin has introduced a measure, S. 171, that would establish effective capital-gains tax rates ranging from 7.5 percent to 14 percent for individuals. A top capital-gains tax rate of 17 percent would apply to corporations.

Kasten's bill would index capital gains to adjust for inflation—a provision that would be particularly helpful for those who have held their investments for many years. The legislation is targeted at equity investments but would cover certain other assets as well. Assets would have to be held over one year to be eligible for the rate.

Kasten says restoring the differential would help foster the growth of small companies. "Without a capital-gains differential, investors aren't going to take a chance on smaller, riskier companies with a lot of growth potential when they can make safer, dividend-paying investments in larger corporations," he says.

The drive for a lower rate has bipartisan support. Liberal Democratic Sen. Alan Cranston of California is sponsoring a bill that calls for a top rate of 13.2 percent for both individuals and corporations. Individuals earning under \$25,000 a year would not be subject to any capital-gains tax, and the Cranston bill would not affect assets held for over five years. "A capital-gains-tax differential is particularly important to the competitiveness of our electronics industry, which is the largest manufacturing sector in the U.S.," he says.

The real-estate industry would like to see depreciable assets like buildings included in any measure that wins passage. "This industry creates a huge number of jobs for related businesses—contractors, skilled day laborers, architects, construction companies, attorneys, and building-maintenance engineers," says Ellen Sigal, of Sigal Zuckerman Construction Co., a Washington-based developer of commercial real estate. Any capital-gains-rate reduction, she says, "shouldn't exclude and further limit the industry."

While Sen. Kasten agrees that "an across-the-board cut in the capital-gains

rate would, in fact, boost productivity growth and job creation," he sees a drawback to such a cut. "It also would promote investment in real estate and collectibles and [would] encourage the kind of unproductive tax-sheltering activity that atrophied the economy back in the 1970s."

Restoring the capital-gains differential also would boost federal revenues, say supporters. They contend that a



PHOTO: T. MICHAEL KEZA

Rep. Bill Archer, R-Texas, has introduced a bill to establish a flat capital-gains tax of 15 percent for both individuals and corporations.

lower rate encourages investments in activities that create jobs, increase productivity, and generate income. Realization of gain on those investments produces income that is subject to federal taxation, but a higher rate discourages the realization of gains and depresses the amount of taxable income.

In a recent speech before the annual meeting of the U.S. Chamber of Commerce, President Bush noted that his capital-gains proposal would bring in an extra \$4.8 billion in federal revenue next year. That income would provide most of the estimated \$5.3 billion in new funds for fiscal 1990 that the White House and Congress have

agreed are to come from changes in the tax code, he said.

Opponents of a lower rate argue that it would benefit only the rich and that it would result in a revenue loss for the U.S. Treasury. They note that the congressional Joint Committee on Taxation estimated that the Bush proposal would cost the government \$13.3 billion through 1993. But a study prepared for the American Council for Capital Formation shows that the combined effects of the two earlier reductions in the capital-gains rate produced a direct revenue increase of \$4.7 billion over the 1979-1985 period. ACCF is a Washington-based nonprofit organization devoted to supporting government policies that promote jobs, growth, and competitiveness.

"The U.S. now stands nearly alone in the industrialized world with its high rates of capital-gains taxation," says John Carson, an attorney in the Tax Policy Center of the U.S. Chamber. Major competitors in South Korea, Taiwan, the Netherlands, and other countries pay no capital-gains tax; those in West Germany are taxed only on short-term gains. Even the Socialist governments of France and Sweden tax long-term capital gains at only 16 and 18 percent respectively, he points out.

Although there is a bipartisan effort to restore the capital-gains differential, hurdles remain. For example, there is reluctance among congressional tax-law writers to alter key provisions of the massive 1986 tax-reform law. Some opponents of early action on capital-gains taxes say that any cut in those rates would have to be offset by higher rates on ordinary income.

Despite such difficulties, supporters of a lower capital-gains rate say that the outlook for passage is improving. Says Allen Neece, chairman of Neece, Cator and Associates, a government-relations firm based in Washington, D.C.: "I think the Bush administration is going to go for broke pushing for capital-gains tax cuts. And passage is clearly within the realm of possibility."

House Minority Whip Newt Gingrich, R-Ga., offers a similar assessment: "I think Congress is going to pass a lower capital-gains rate in the end because it is pro-jobs, pro-competitiveness, and pro-investment." ■

Folding Napkins To Ring Up Sales

By Michael Barrier

Henry L. "Tad" Bretting was fresh out of the University of Notre Dame with a business degree in 1958, but he was not planning to join his family's firm or any other business. He was going to be a professional baseball player.

Bretting spent the summer pitching in the Chicago White Sox's farm system, but "my arm went bad on me," he says.

Reluctantly, he gave up baseball and headed for the family firm, C.G. Bretting Manufacturing Co. Inc., of Ashland, Wis. His timing was not particularly good. It appeared that the Bretting Co.'s best days were long gone. Tad's grandfather had founded it late in the 19th century as a maker of machinery for sawmills and mines, then of great economic importance in the upper Midwest. But as the economy changed, the Bretting Co. stopped making sawmill machinery, and by the early '40s, it had stopped making mining machinery, too. When Tad joined the company, it had only 11 employees, and sales had shrunk to \$120,000 a year. The Bretting Co.'s main business was servicing equipment it had sold many years before.

How things have changed. C.G. Bretting now has 260 employees and annual sales of \$30 million—thanks to changes that Tad Bretting started making 30 years ago.

In tribute to his success in reshaping a moribund manufacturing company into a thriving producer of specialized equipment, the U.S. Small Business Administration has named Bretting National Small Business Person of the Year for 1989. He received his award from President Bush in a ceremony at the White House.

The top winner is chosen by the SBA's advisory council of small-business leaders from among the 52 Small Business Persons of the Year representing the states, the District of Columbia, and Puerto Rico/Virgin Islands (see listing below). The criteria for selection include staying power, growth in work force and sales, innovation in products or services, and response to adversity.

To fasten on how Tad Bretting achieved the top honor, just do this: The next time you're in a fast-food restau-

Wisconsin manufacturer Tad Bretting receives his award as Small Business Person of the Year from President Bush in a White House ceremony.



PHOTO: SMALL BUSINESS ADMINISTRATION

rant, take a look at the napkin dispenser. Think about how many napkins a fast-food store uses in a day, and the tens of thousands of fast-food stores in this country. Think about the light, unstable paper those napkins are made of, and how difficult it would be to design a machine that could fold those napkins at high speed without tearing them.

And there, Tad Bretting says, you have the key to his company's success: "We were the first ones to really automate the production of paper napkins."

When Tad Bretting started working at C.G. Bretting Co., he recalls, the best available napkin-folding machine required two people to turn out 1,600 folded napkins a minute. He was encouraged by a paper-company executive to design and build something better.

After some trial and error, Bretting and John Trogan, a young engineer, came up with a machine that required only one operator and could fold 2,000 napkins a minute.

Today, John Trogan heads C.G. Bretting's 70-member engineering staff, and the Bretting Co. produces a single-operator napkin folder that can turn

out 3,400 napkins a minute. It also sells machinery for folding paper towels, boxed facial tissues, aluminum foil, and wax paper.

The napkin-folding machines are big (70,000 to 80,000 pounds each) and expensive (\$500,000 to \$850,000 each). They dominate the domestic market—Tad Bretting estimates that his machines have a 90 percent share. Domestic demand may be slackening, as the fast-food industry's growth flattens out, but, Bretting says, "the overseas market is just really starting to take off."

Foreign customers accounted for about 30 percent of the company's sales last year and will probably account for 35 to 40 percent in 1989. Tad Bretting says that his foreign customers, like those in the U.S., have been drawn to the Bretting machines not by advertising but by glowing reports from companies that already have the Bretting folders. "We spend virtually zero on advertising," he says.

Tad Bretting, at 53, has carried the family company to heights his father, the late Lyman Bretting, never dreamed of, Tad says. Yet it took "some fairly heavy borrowing," he adds, to develop the folding machines, and it was thanks to his father's "extremely good credit" that the money was available.

Lyman Bretting never borrowed, Tad says, "except for his house. If he bought a piece of equipment, he paid cash. I learned that if I missed paying a bill on time, he just absolutely hit the ceiling."

But Lyman Bretting decided very early that he could trust his son's judgment. Tad became president of the company while he was in his mid-20s. Even after taking charge, though, he didn't make major decisions—buying an expensive piece of equipment, say—without checking with his father.

"The first machine tool I bought," he recalls, "I spent months putting justification together for it, because I had to borrow money for it, and that was the first time we ever borrowed money to buy equipment." He thought his father would resist buying the machinery until they had the cash on hand to pay for it, "but by the time I got done with the story, his remark was, 'I don't think

Tad Bretting, 1989's Small Business Person of the Year, saved a family firm by finding a way to fold paper faster.

one is enough. You'd better look at buying two of them."

The first runner-up in the national competition was Richard A. Barlow, president of REMA Bakeware Inc., in Salina, Kan. REMA, which Barlow founded in 1983, manufactures insulated baking sheets that consist of two sheets of aluminum separated by a cushion of air. Last year, REMA, which has 100 employees, sold 1.8 million baking sheets, for total sales of \$12 million. Other winners:

Alabama. Albert S. Klyce III, Bebo's Auto Wash, Mobile.

Alaska. Peter G. Eden, Alaska Wild Berry Products, Homer (jams, jellies, sauces, and candies).

Arizona. Clint J. Magnussen, Kurta Corp., Phoenix (computer graphic input systems).

Arkansas. Edward L. Peterson, PFI Inc., Springdale (office furniture).

California. Gregory William Hind, Hind Inc., San Luis Obispo (sporting apparel).

Colorado. Noel D. Ginsburg, Container Industries, Denver (plastic containers).

Connecticut. Laura D. Page, Page-Taft Real Estate, Guilford.

Delaware. Ahmad Amer, Amer Industrial Technologies, Wilmington (nuclear components and commercial products).

District of Columbia. Stavros K. Vetsis, Horst K. Klein, and William A. Homan III; National Food Enterprises; Arlington, Va.

Florida. Ron Sacino, Sacino's Formalwear, St. Petersburg (rents and sells formal wear).

Georgia. Carolyn A. Stradley, C & S Paving, Marietta.

Hawaii. Walter J. Smith Jr., Smith's Motor Boat Service, Kapaa.

Idaho. Jose L. Valdez, Casa Valdez, Caldwell (tortillas).

Illinois. Joyce A. Price and James D. Price, Hearthside Interior Designs, Sesser (wooden home furnishings).

Indiana. James D. Edwards III, Spencer Plastic Products Corp., Dale.

Iowa. Marvin J. Walter, Carriage House Meat & Provision Co., Ames (meat processing).

Kentucky. Dana K. Sargent, Daniel's Home Bakery, Ashland.

Louisiana. J. Peter Perez, Environ-

Richard Barlow, whose Salina, Kan., firm, REMA Bakeware, makes insulated baking sheets, was first runner-up in the national competition.



PHOTO: GREGORY BREZDOW—BLACK STAR

mental Remediation, Baton Rouge.

Maine. William D. Purington, Maine Drilling & Blasting, Gardiner.

Maryland. Wayne E. Alter Jr., Dynamark Security Centers, Hagerstown.

Massachusetts. Richard E.T. Brooks, ChemDesign Corp., Fitchburg (specialty chemicals).

Michigan. Marshall V. Noecker, Noecker Group, Detroit (storm windows and doors).

Minnesota. Arnold S. Johnson, Universal Pensions, Brainerd (retirement services).

Mississippi. Roy A. Smith, Southern Wood Preserving of Hattiesburg, Hattiesburg.

Missouri. Mendel Rosenberg, Delsan Industries, St. Louis (aluminum and vinyl windows and doors).

Montana. James C. Johnson, Hi Country Beef Jerky, Lincoln.

Nebraska. Craig Anderson and Phil Sommerfeld, SealRite Windows, Lincoln (wood windows, doors).

Nevada. L. Thomas Carns, PDQ Printing, Las Vegas.

New Hampshire. Eli Isaacson, Isaacson Structural Steel, Berlin.

New Jersey. Peter J. Fioretti, Waterfront Invest, Hoboken (real-estate developer).

New Mexico. Ronald J. Solimon, Laguna Industries, Laguna (communications components).

New York. Donald J. Zinn, Management Dynamics, Tarrytown (consulting).

North Carolina. Ralph "Lex" Alexander, Wellspring Grocery, Durham.

North Dakota. Gerhard P. Socha, Rugby Manufacturing Co., Rugby (truck bodies).

Ohio. Lee Middleton and Lloyd Middleton, Middleton Doll Co., Coolville.

Oklahoma. Donald E. Mitchell, Mitchell Manufacturing, Stillwater (kicker speakers).

Oregon. Gregory C. Hewitson, Matthew J. Hewitson, and Charles E. Hewitson; Current Electronics; Newberg (circuit-board kits).

Pennsylvania. Peter C. Rossin, Dynamet Inc., Washington (processes alloys for aerospace medical industries).

Puerto Rico. Enrique Vila del Corral, Vila del Corral & Co., San Juan (certified public accountant).

Rhode Island. William P. Black, J.F. Moran Co., Warwick (brokers and freight forwarders for international trade).

South Carolina. Steve R. Grant, Carolina Poultry Sales, Florence.

South Dakota. Arthur A. Kroetch, Scotchman Industries, Philip (hydraulic ironworkers, circular cold saws, and glide-in band saws).

Tennessee. Jesse E. Rogers, Universal Technologies, Estill Springs (defense contractor).

Texas. Larry Forehand, Casa Olé, Houston (restaurant).

Utah. Chad H. Olson, Pro Image Inc., Bountiful (franchise stores selling professional and collegiate sports merchandise).

Vermont. Bruce F. Gratz and M. Martin Tucker, Workspace Inc., Chelsea (furniture).

Virginia. Hugh E. Joyce, James River Air Conditioning, Richmond.

Washington. Donald E. Boyer, Don Boyer Chevrolet-Pontiac, Oak Harbor, and John W. Strauser, Strauser Manufacturing, Walla Walla (wood products).

West Virginia. Wayne S. Simonton, Simonton Building Products, Pennsboro (storm windows and doors, awnings, canopies).

Wyoming. Stanley A. Cooper, Sublette Electric, Kemmerer (contractor). ■

For Your Tax File



PHOTO: © RICK STEWART—ALLSPORT USA

Court Cancels A Super Bowl Bid

By Gerald W. Padwe, C.P.A.

How's this for a new sales strategy? Invite a number of your best customers to send two representatives each to a Super Bowl game. Advertise the trip as a "Super Bowl Sales Seminar." Along with the invitation to the game, include a tour of the city, and pay all your guests' expenses.

Despite one company's demonstration that it increased sales to customers attending the 1981 Super Bowl weekend in New Orleans by almost \$2 million, the U.S. Court of Claims has denied the corporation a tax deduction for its entertainment expenses.

What caused the company to lose its deduction for the Super Bowl weekend? There were a number of problems; the court focused on three:

First, although the company had

If you took clients to this year's Super Bowl and decided to claim a business-expense deduction, document the business you conducted—or the IRS might call back your play.

asked its customers to send two "decision-making representatives" to the event, some of those who attended—such as spouses, children, and friends—clearly were not in this category.

Second, no specific or substantial sales effort occurred. There was a lot of socializing during the weekend, but no organized business discussions took place. Only a few of the attendees later recalled specific business discussions.

Third, tax regulations require that businesses keep detailed documentation about certain types of entertainment such as a Super Bowl weekend. The company had no organized documentation about the business aspects of the weekend.

Tax law prohibits a deduction for entertainment unless it either is "directly related" to your business or comes just before or just after a "substantial" business discussion. When the entertainment event itself precludes business discussions during the event, such as a football game, it may be necessary to schedule significant business meetings before or after it to meet these requirements.

The company's inability to demonstrate that business discussions at its Super Bowl weekend were substantial parts of the total activity led the court to conclude that the event was "entirely social."

The tax law prohibits a deduction for merely social entertainment.

Key Tax Changes In Sight

Even if no tax-law changes are enacted this year, keep in mind that Congress, through prior actions, already has established several changes to take effect in 1989. They show that you can raise taxes without raising rates.

- Taxpayers eligible for Medicare Part A will owe a supplemental Medicare premium, reportable and payable with the 1989 return. It could be as much as \$800 per person, or \$1,600 on a joint return. Taxpayers cannot decline this coverage for catastrophic illnesses. The maximum premium is set to increase in later years.

- Beginning in 1989, a taxpayer cannot claim a dependency exemption for a child who is 24 years old by the end of the year and has income over \$2,000. This applies even if the child is a full-time student.

- Also beginning this year, new rules apply to the child- and dependent-care credit and the exclusion for dependent-care assistance. The dependent must be under 13 years old (lowered from age 15). Taxpayers must report the name, address, and taxpayer identification number of the care provider to the IRS. If the taxpayers receive reimbursement from an employer's program for dependent-care assistance, the dollar limit on expenses eligible for the credit is reduced.

- The targeted job credit has been extended through 1989. For purposes of the credit, however, an economically disadvantaged youth must be at least 18 years old but under 23. Research and business energy credits have been extended through 1989.

- Beginning in 1989, no deduction is allowed for the part of qualified research and experimental expenses equaling 50 percent of the research credit for the year. A company that does not want its deduction reduced can elect not to claim the research credit. **B**



Gerald W. Padwe is national director-tax practice for Touche Ross & Co. Readers should see tax and legal advisers on specific cases.

Personal Management

To Your Health

By Phyllis M. Barrier

Should You Go On A Very-Low-Calorie Diet?

We've all heard a lot in recent months about liquid-formula diets. One of them, Optifast, allowed TV star Oprah Winfrey to lose 67 pounds in just a few months.

Clinics and hospitals around the country offer many such fasting programs, on an out-patient basis. Among the names, in addition to Optifast, are Medifast, Ultra Slim-Fast, HMR, and Care Fast. Protein and calorie levels vary considerably from program to program (between 300 and 800 total calories per day, and from 33 to 70 grams of protein), as do other components. Typically, though, a patient's only food for weeks is a powdered formula dissolved in water.

More than 50 deaths were attributed to liquid-protein diets in the '70s. The liquid protein in those diets was nutritionally inadequate, but the newer very-low-calorie diets (VLCD) appear to be safe when they are administered under careful medical supervision, and they seem to be potentially effective when they are joined with behavior modification—that is, improved eating habits—and exercise.

The VLCD programs are very expensive, however; their average cost is about \$2,500. The drop-out rates are high, around 50 percent. They are recommended only for severely obese people who are at least 50 pounds or 30 percent above ideal body weight. Other candidates might be those who are not quite so obese but have health problems that will respond quickly to weight loss, such as sleep apnea, high blood pressure, and diabetes.

Before VLCD programs came along, severely obese patients were treated surgically, through colon resectioning, stomach stapling, and balloon inser-



PHOTO: TOPLINE/WOODFIN CAMP

Very-low-calorie diets, like the one Oprah Winfrey was on, appear safe and, when combined with behavior modification, may provide long-term weight loss.

tions—none of them successful over the long term. As far as behavior modification was concerned, doctors and nutritionists attempted to deal with very obese patients as they did patients who were only moderately obese. The idea was that gradual changes in eating habits and a slow loss of weight would reinforce each other, so that the patients would eventually wind up at their ideal weight and would eat in a way that kept them there. But Dr. Isaac Greenberg, director of the Center for Nutritional Research in Boston, says that "for people needing to lose 40 pounds or more, these [behavior-modification] diets were simply not realistic." Patients were all too likely to regain what little weight they lost.

In a carefully controlled VLCD program, however, a patient can reasonably hope not only to lose a large amount of weight but also to regain no more than one-third of the lost weight one year after completing the program.

Cindy Marquardt, a nurse in the Washington, D.C., area, who lost 100 pounds in the Optifast program, explains the power of VLCD programs:

"It is very discouraging to lose a few pounds here, a few pounds there," as under most traditional weight-control programs, but "very motivating to lose more quickly. It is much easier to not eat than to eat moderately." Marquardt went through Optifast with a group of about 15 women, who gave each other moral support.

If you are thinking about entering any of the VLCD programs, you should get a thorough physical examination first, to make sure you are not suffering from conditions that might make the program risky. Dr. Harry Schumann, a Washington physician who himself has gone through one VLCD program and worked in another, says that patients with kidney problems, for instance, probably should avoid the diets because of the loss of body fluids they entail.

Different tests are recommended before entering different programs, but the tests might include an electrocardiogram, complete blood counts, and other body-chemistry tests. Some programs require that you adopt a weight-stabilizing diet or take a course in behavior modification before you start the very-low-calorie diet.

How long should you stay on a VLCD? Dr. Richard Atkinson of the Veterans Administration Medical Center in Hampton, Va., believes that "12 weeks is the maximum to insure safety." After that, there should be a gradual return to a normal diet.

Fasting brings some loss of lean body tissue and changes in metabolism as well as the loss of fat. Patients adjust to fasting psychologically as well as physically. "I felt euphoric," Schumann says. "I had a sense of well-being while I was on the fast." Weaning the patient away from the VLCD and back into a pattern of regular meals can thus be difficult. Patients must deal with increased food choices for the first time in weeks, and their reactions can range from apprehension to anticipation.

The apprehension is justified. Even though very-low-calorie diets are the best vehicles now available to treat severely overweight patients, to be effective they must be only the beginning of a new lifestyle that includes radically changed eating habits, increased physical activity, and self-monitoring. ■

Phyllis M. Barrier, M.S., R.D., is a nutrition consultant and nutrition coordinator for a Washington-area health-maintenance organization.

It's Your Money

By Paul N. Strassels

Certificates Of Deposit: It Pays To Shop Around

Buying certificates of deposit is the rage these days. Many investors still consider the stock market too risky for long-term investment. Small investors are reluctant to sink their retirement nest eggs into anything other than low-risk CDs. While you won't make a killing by buying CDs, you will sleep well and earn a respectable return on your money.

If, that is, you get the best deal.

Unfortunately, the terms offered by banks, savings and loans, and credit unions, in a given locality as well as nationwide, are anything but uniform. That makes it difficult to compare one CD with another.

Yet you should compare CDs—not just their interest rates but also how that interest is compounded, what penalties are levied for early withdrawal, and more.

When looking at interest rates, understand what's being offered. Is it simple interest? That is the annual percentage rate paid on the CD, without any compounding. At a given rate, you can't get any lower yield than with simple interest.

The annual effective yield (or annual yield) is a key number. This is the actual annual return after compounding. If the annual effective yield is 9.25 percent, a \$10,000 investment will be worth \$10,925 after one year.

The more frequently your interest is compounded, the more you will collect when your CD matures. Typically, interest may be compounded annually, semiannually, quarterly, monthly, or daily. But you have to ask. Never assume that your bank computes its interest the same way on all investments. It may offer monthly compounding for certificates of 24 months or more but only simple interest on CDs of six months or less.



Paul N. Strassels, president of Money Matters Inc., Burke, Va., is a tax-law specialist and financial adviser.



PHOTO: T. MICHAEL REZA

The best way to compare interest yields is to ask each bank where you are considering the purchase of a CD to calculate the amount you will earn

over the term of the investment. There can be substantial differences, especially on large investments over long periods.

The best way to compare interest yields is to ask each bank where you are considering the purchase of a CD to calculate the amount of interest you will earn over the term of the investment. There can be substantial differences, especially if you are investing a significant amount over a long period of time.

For example, you can earn, on a \$10,000, one-year investment at 9 percent, \$900 in simple interest, \$920 when interest is compounded semiannually, \$931 with quarterly compounding, \$938 with monthly compounding, and \$942 when interest is compounded daily.

There's more to selecting a CD than simply comparing interest rates. Premature-withdrawal penalties vary from bank to bank. Be clear on what the penalty entails before you invest in a CD. Some require that you forfeit a couple of months' interest. Others may take enough money to cover their cost of finding a replacement investment. That's a steep price to pay.

There are other terms to consider. Can you add amounts to your CD during the term and earn high interest rates on that money? What happens when the CD matures? Will it automatically be rolled over into a similar instrument, held without interest, or placed in a passbook account? Will you be notified prior to the CD's maturity?

Keep in mind that the best terms may not be offered locally. To maximize your return, you may have to purchase CDs from creditworthy banks in other states.

Check the financial pages of the newspaper to determine competitive rates. Or call your local investment broker, who can purchase CDs for you. The commission is small, and the convenience may be worth the cost. Another plus to purchasing a CD through your broker is that if you need to cash it prior to maturity, you can instruct your broker to sell it to another investor rather than redeem it at the bank, so you won't suffer that stiff premature-withdrawal penalty.

A College Degree Pays Off

The investment of time and money in a college education is well worth it, but the best return on your money may be realized by encouraging your children to attend your local state university rather than the more expensive private schools.

According to the latest studies, college graduates are earning almost 50 percent more than people with only a high-school diploma. This is a much wider spread than in the 1970s, when the income of college graduates was only 15 to 20 percent higher.

If you have two jobs, you may pay more than your share of Social Security taxes without knowing it. The amount that you pay on income

exceeding \$48,000 can be claimed as a credit when you file your 1989 tax return.

When it comes to earnings potential, the reputation of the school makes little difference.

While the Ivy League universities and other private institutions have great reputations—and tuitions to match—graduates of state universities earn equally high salaries.

Are You Overpaying Social Security?

Those who toil at high-paying or multiple jobs during the year often overpay their Social Security (FICA) taxes, and, all too often, don't even know it. The problem can arise in each of three situations: You work for a single employer and earn more than \$48,000 annually; you work for multiple employers and receive a combined annual salary of more than \$48,000; or you work for one or more employers as well as for yourself part time.

The law provides that each employee must pay a tax of 7.51 percent on the first \$48,000 he or she earns this year. (The tax rate is set by Congress, and the wage base is adjusted annually to reflect inflation.) Employers withhold the tax from employees' pay and also pay a matching amount as their share of Social Security. Periodically the employers deposit these payroll taxes at a government depository. Those who are self-employed pay 13.02 percent on the first \$48,000 of net self-employment earnings.

If you work for only one employer during the year, FICA should not be withheld after you have earned \$48,000. However, some employers mistakenly continue to withhold Social Security when earnings exceed the wage base for the year.

Check your earnings statements. If Social Security is improperly withheld, have your employer correct the mistake and refund the excess to you.

If you work for multiple employers, each withholds Social Security on up to \$48,000 of the wages paid to you. That means you may substantially overpay the employee portion of the Social Security tax, which you will claim as a tax credit when you file your personal tax return for the year.

There is an alternative, however. You can adjust your income-tax withholding to take into account the tax credit you will be claiming. (The overage paid by the employers on their portion of the tax cannot be recouped by them.)

Those who combine self-employment with a job get the best possible deal.



PHOTO: © PETER GARFIELD

The employer handles Social Security based on the amount of wages paid. Those wages are applied against the wage base, with only the excess subject to the self-employment tax. For example, if you earn \$45,000 in wages (all of which is subject to Social Security), and you have an additional \$35,000 in net self-employment earnings, only \$3,000 of the latter amount is subject to self-employment tax.

A Tax Break On Estate Planning

Although the Internal Revenue Service has no problem when you write off legal fees associated with business activities and tax planning, it generally will not permit you to write off the cost of legal advice pertaining to personal matters.

But what about legal fees for estate planning? You can deduct legal fees for the tax aspects of estate planning as a miscellaneous itemized expense on your personal income-tax return. Just ask your attorney and financial planner who draw up your will and estate plan to break down their fees between personal and tax advice.

Documenting Deductions

Expect the IRS to challenge all business travel and entertainment expenses, and to turn down your deductions when you lack the proper documentation. Don't be shocked when the IRS demands the business purpose of each specific expenditure. One recent case illustrates the extremes to which

the IRS can go. A salesman was not reimbursed by his company for his meals, lodging, and automobile expenses, so he deducted what he spent on his personal return. He kept receipts and canceled checks showing what he spent on his trips—but he did not have records indicating the business purpose of each specific expenditure, so the IRS turned them all down. He appealed all the way to the U.S. Court of Claims before he was allowed to write off his expenses.

Frankly, it's easier to keep the meticulous records that you know the IRS demands.

Keogh Alert

The law requires those with retirement plans to file an annual report with the Internal Revenue Service on Form 5500 within seven months after the close of their plan year. That's by July 31 for calendar-year taxpayers. You are required to file Form 5500-C, 5500-R, or 5500-EZ depending on the number of participants in your plan. Use 5500-EZ for single-participant pension plans.

The information required by the 5500 series is tedious to compile, and it has nothing to do with your actual tax liability. However, if you are late filing a 5500 form, you can be charged a penalty of \$25 per day. To help it determine how well Keogh-plan owners are complying with the filing requirement, each IRS district is auditing a small sampling of taxpayers owning one-person Keoghs to see if they are filing on time. ■

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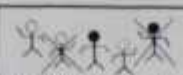
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Shaping A Board

We are a young company with a growing shareholder base. Consequently, we are moving toward a more formalized board of directors, with regular meetings. Could you offer guidelines on how to go about selecting board members who will contribute most to the company? How can the board be best utilized for the development of the company? How can we get maximum effectiveness from board meetings?

O.B.C., Dallas

Ideally, a board of directors advises the company's chief operating officer, offering viewpoints potentially broader than those that might be developed within the company, says Hollis Vail, president of Vail Associates, a management-consulting firm in Bethesda, Md. "The basic function of a board of directors is to be the hair shirt for the CEO," says Vail. "A good [board of directors] asks the difficult questions."

In forming a board, you first should select members who have industry knowledge and understand the fundamental business.



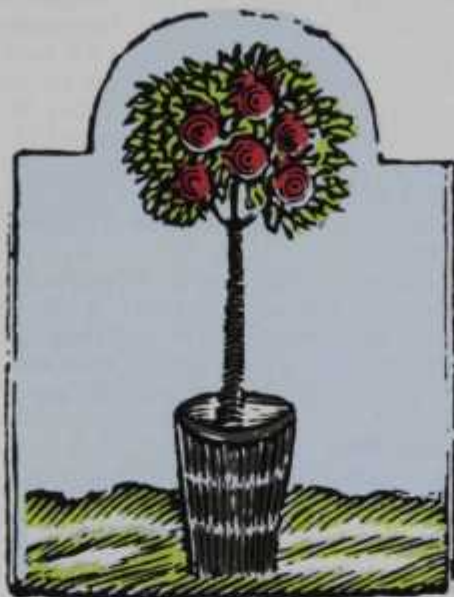
ILLUSTRATIONS: JASON LEVINSON

The board should be balanced, says Vail, which means, for example, that one member understands marketing, another knows where to get financing, another has experience in administration, and another knows how money operates and how much company debt is safe.

It is most important, says Vail, that a board member "function at the highest level of the company without having control."

A board member should not be a hands-on type, Vail says, but instead should be able to take a detached look at the organization.

The Small Business Administration (SBA) can be helpful for more specific questions. Contact your local SBA office. The Dallas district office is at 1100 Commerce St., Room 3C-36, Dallas, Texas 75242; (214) 767-0605.



Greenery On Loan

My husband and I are thinking about starting a plant-rental business to service restaurants and professional businesses with live plants and greenery. Our services would include weekly servicing and replenishing of interior greenery. Any suggestions on whom we may contact to help us get started?

K.M., Pinellas Park, Fla.

Contact the American Horticultural Society, 7931 East Boulevard Drive, Alexandria, Va. 22308; (703) 768-5700, for its free list of horticultural organizations and products. The organization's magazine, *American Horticulturist*, contains helpful tips and sources for further information.

Two other publications could be useful for you: One is *Interior Landscape Industry*, a magazine put out by the American Nurserymen Publishing Co., 111 North Canal St., Suite 545, Chicago, Ill. 60606. The other is *Greenhouse Grower*, a magazine from Meister Publishing Co., 37841 Euclid Ave., Willoughby, Ohio 44094. The company also has published a buyer's guide for horticulturists.

Patent Process

We have our business in Cold Spring, Minn. How can we obtain a U.S. patent? Is there a fee? Do you have a waiting period?

B.U., Cold Spring, Minn.

The patent process is described in a Patent and Trademark Office brochure, "General Information Concerning Patents," available for \$2 from the U.S.

Profits on the hoof, plants on loan, and other entrepreneurial initiatives inspire this collection of helpful business hints.

Government Printing Office, Washington, D.C. 20402. Ask for stock No. 003-004-00634-0. The brochure includes forms for a do-it-yourself patent application, but most people can't manage the process themselves and hire a patent attorney.

The process can be relatively inexpensive if you decide to do it yourself, or it can become costly if you hire a patent attorney to do it for you. For the small inventor (defined by the Patent and Trademark Office as an individual, partnership, small business, or a non-profit organization), the application cost is \$185 if you do the work. For a corporation, the cost is \$370. Application processing can take 18 to 25 months, and the whole patent process can take three years or longer.

Susan Boyer, president of SRB Associates, an intellectual-property research firm in Alexandria, Va., says that if you



hire a patent attorney, you should check to be sure that the attorney is included on the U.S. Government Printing Office's list of agents and attorneys registered with the Patent Office. Check your local library for a copy of the publication, *Patent Attorneys and Agents Registered to Practice Before the United States Patent and Trademark Office*. Patent attorneys are available locally and are listed in your telephone directory.

For further information, call the Public Service Center of the Patent and Trademark Office at (202) 557-5168.

Convention Planning

I am interested in starting a business that would make arrangements for conventions, parties, guest speakers, etc., mostly in the business field. Where may I get information on starting this type of business?

E.E., Topsham, Maine

For a free pamphlet on a career as a meeting planner, contact Meeting Planners International (MPI), an organization of self-employed and corporate

MANAGING YOUR BUSINESS

Direct Line



meeting managers, which is headquartered at Infomart, 1950 Stemmons Freeway, Dallas, Texas 75207; (214) 746-5222. MPI also sells a number of publications on various topics of planning meetings, and it publishes a monthly magazine, *The Meeting Manager*. Non-MPI members can subscribe to the magazine for \$35 a year.

The Professional Convention Management Association (PCMA) publishes *Professional Meeting Management*, a guide to the meeting and convention business. Send \$49.95 plus \$3 postage to PCMA, 100 Vestavia Office Park, Suite 220, Birmingham, Ala. 35216.

Stealing Ideas

I have an idea for a new product, and I probably can raise some money to pursue my idea initially. My biggest concern is that someone might steal my idea. Is there a reliable source whom I can contact to direct me with this?
D.J.M., King of Prussia, Pa.

The general rule is that an idea or concept doesn't qualify for protection under trademark, copyright, or patent laws until that idea matures into something concrete, original, useful, and potentially profitable, says Andrew Sherman, a partner in the Washington, D.C., law firm of McVey & Sherman. Without those qualifications, he says, an idea can be lost by voluntary disclosure to a third party.

According to the American Intellectual Property Law Association, you should treat your idea like a trade secret. The organization suggests that you obtain a signed disclosure agreement from any business associate with whom you share your idea. The agreement states that the person will not use the information or divulge it to anyone.

You also may send your plans, blueprints, pictures, or a description of your idea to the U.S. Patent and Trademark Office. Through its Disclosure Document program, your idea will be credited, dated, and kept on file for two years. "This does not preclude a pat-

ent," says Donald R. Hinst, president of the Society of American Inventors, but in case of a problem, "you will have a documented date of invention for legal action." For information about the Disclosure Document program, call the Patent and Trademark Office at (202) 557-5168. Copyright lawyers can also give you confidential-disclosure agreements.

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Cattle Drive

My husband and I are trying to establish ourselves in the cattle business. For the past three years, we've spent a lot of money on cattle, vet bills, feed, and equipment, but we don't seem to be making any money. Are there any books available that can help us get our business going and more profitable?
J.S.D., Alvarado, Texas

You could start with the Texas Agriculture Extension Service. Its comprehensive agency on beef production is run in conjunction with Texas A&M University. Contact Dr. Ron Gill at the Extension Service, 17360 Coit Road, Dallas, Texas 75252-6599; (214) 231-5362. The Extension Service's staff specialist on farm management can meet with you to



discuss your enterprise. The Extension Service also offers an array of reference materials, including *The Texas Cow-Calf Management Handbook*, which contains more than 100 fact sheets on the industry and is updated regularly. Its one-time cost is \$40.

General information on running a business and avoiding some of the common pitfalls can be found in *Small Business Reporter*, a series of 17 guidebooks that focus on various problems facing small businesses and explain how they can be avoided. The guidebooks are published by Bank of America and sell for \$5 each. For a list of titles and an order form, write to

Small Business Reporter, Bank of America, Department 3120, P.O. Box 37000, San Francisco, Calif. 94137.

Cottage Cash

I make handwoven wicker lamps and baskets and sell them to individuals and interior-design firms locally. I work out of my home, and I want to expand my customer base, but I don't know how to contact potential buyers about my unique craft. Any advice?
B.A., Lynchburg, Va.

Cottage industries involving handcrafted items are becoming increasingly popular for establishing a second in-



come or for gaining a foothold in the marketplace. If your product is unique, try to obtain as much local publicity as you can, says Pat McCormack of the American Society of Artists (ASA). "The more exposure the better," she says, and participation in craft fairs is a good way to expand your reach and to meet potential buyers.

You also may find it helpful to join an organization like the Society of Craft Designers, which offers exposure to other designers and a list of national media covering the crafts industry. For information, write or call the organization at 6175 Barfield Road, Suite 220, Atlanta, Ga. 30328; (404) 252-2454.

For information on craft shows across the country and a list of galleries and shops looking for crafts, contact the ASA at Box 1326, Palatine, Ill. 60078; (312) 991-4748.

Have a business-related question?

Write to: Direct Line, *Nation's Business*, 1615 H Street, N.W., Washington, D.C. 20062. Writers will be identified only by initials and city. Questions may be edited for space.

The editors of Direct Line have compiled the most-asked questions into a compact guide, at \$3 a copy. To order, call (202) 463-5433 or write to Diane Lewis at the address above.

THE NATION'S BUSINESS

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Where I Stand

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Issue #2 ☐ ☐ ☐

Issue #3 ☐ ☐ ☐

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61	62	63	64	65	66	67	68	69	70	71	72
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Should Congress require firms to provide health insurance?

Should Congress impose a tax on imported oil?

26% 63% 11%

Should Congress create a land-acquisition trust fund?

21% 63% 16%



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Attn: Promotion & Research Dept.

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can be officially waived by a majority vote or unofficially ignored. Opponents charge that a balanced-budget/tax-limitation amendment would enhance pressure to move spending off-budget and hamper government's ability to respond effectively to rapidly changing economic conditions. Do you favor adoption of a balanced-budget/tax-limitation amendment to the Constitution?

2. Give President Line-Item Veto Power?

President Bush, like many of his predecessors, wants power to veto specific budget items he deems wasteful and unnecessary. The president now must accept or reject in their entirety the broad spending bills that contain these specific items. Line-item veto power,

wielded by most state governors, is seen by supporters as an effective tool for deficit reduction. Opponents contend it would shift too much power from Congress to the executive branch. Should the president be permitted to veto line items in spending bills?

3. Apply "Common Sense" To Budget Process?

Fiscal reformers in Congress are sponsoring a "common-sense" plan to require the president and Congress to use current-year outlays as the base for drafting the following year's budget. Budget planners now use as a starting point current spending adjusted up-

ward to anticipate things such as inflation and demographic shifts. Defenders of the status quo say failure to account for changing conditions would lead to deteriorating services. Sponsors of the "common-sense" bill blame high deficits and rising taxes on the assumption that spending must increase automatically. Should Congress adopt "common-sense" budgeting?

Verdicts On May Poll

Here is how readers responded to the questions in the May issue.

	Yes	No	Undecided
Should Congress require firms to provide health insurance?	11%	87%	2%
Should Congress impose a tax on imported oil?	26%	63%	11%
Should Congress create a land-acquisition trust fund?	21%	63%	16%



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- Swintec Corp. 51
- Tillinghast 5
- US West Public Phones 61
- US West Corp. 26
- Varco-Pruden Buildings 7
- Volvo GM Heavy Truck Corp. 55
- Walker Telecommunications Corp. 94

A Value-Added Tax Would Harm The Economy

By Warren T. Brookes

A decade ago, I wrote a couple of columns urging Congress to replace the corporate income tax with a value-added tax (VAT).

My economic logic was impeccable: Exchange a massively random, economically distorting, inefficient tax on production and investment for a fairer, more uniform tax on consumption.

My political logic, however, was something less, as the late Al Ullman, the Oregon Democrat who was then chairman of the House Ways and Means Committee, was to discover a year later. After he endorsed a VAT, he was beaten by a Republican rookie.

An older and wiser political economist said to me at the time: "There's only one thing wrong with your idea, Warren: Show me a single country where the VAT has ever replaced another tax."

I discovered he was right: Every country that has enacted the VAT also has a corporate income tax, and without exception all of those countries have much higher total tax burdens than the U.S. has. Britain's tax burden is 33 percent higher; West Germany's, 30 percent; France's, 55 percent.

In short, the VAT has been used again and again not to make the tax system more economically efficient but to generate vast increases in revenues, giving politicians, even conservative ones, spending temptations they find almost impossible to resist.

Few remember that British Prime Minister Margaret Thatcher "traded" some significant and needed reforms in that country's corporate and personal income-tax systems, cutting the top rate from over 90 percent down to about 65 percent from 1979 to 1984, in return for a large increase in the VAT to 15 percent.

In that period, the conservative Mrs. Thatcher watched her nation's total tax burden soar by 6 full percentage points, a whopping 17 percent relative increase. That increase was one of the key reasons why Britain was mired in 11-13 percent unemployment until much larger cuts in income-tax rates from 1986 to 1988 brought the needed final economic stimulus.

Britain discovered why Nobel economist James Buchanan, in his brilliant treatise "The Power to Tax," warns

against any "base-broadening tax proposal" such as the VAT: "If such a proposal is adopted, it may be predicted that ultimately the value-added tax would be used to generate revenues greatly in excess of the revenue reductions under other taxes."

Sadly, this advice has not been heeded by some segments of the business community or by some Republicans.

Late in April, a small group of serious-minded Republicans calling themselves "The Congressional Consumption Tax Working Group," headed by Rep. Richard Schulze of Pennsylvania, took strong offense at an April 21 bulle-

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Warren T. Brookes is a nationally syndicated columnist on economic issues.

tin from the Republican Study Committee (RSC) titled "No Virtue in VAT."

That RSC bulletin had heavily condemned the VAT as "regressive," "hidden," and "economically stagnating." It announced the formation of the "Anti-Vat Coalition" of 40 members and growing.

On May 3, Schulze, a member of the House Ways and Means Committee, used the RSC letterhead to argue "a 5 percent consumption tax levied as a business transfer tax, or BTT (similar to the VAT), could raise \$100 billion and totally replace the corporate income tax." It also chided Republicans for ignoring "the favorable aspects of taxing

consumption." Aspects cited included savings enhancement, capital/labor equity, and reciprocity with trading partners that do not levy such a tax.

It suggested that "if one were to poll most businessmen or tax practitioners today, and ask them about replacement of the corporate income tax with a consumption tax, nearly all would agree with the concept."

Indeed they would, and with very solid economic reasons, but no one else would—and that is the rub. Democratic politicians think it would be politically suicidal to end taxes on big corporations in favor of socking ordinary consumers with a big new sales tax.

But proponents of the VAT who still favor this hopeful trade-off point to the fact that almost all other industrial nations now have a VAT. The latest to join the ranks of the proponents is Prime Minister Brian Mulroney of Canada, who in May proposed adding a 9 percent VAT in 1991. This followed an April decision by Japan's ruling party to adopt a 3 percent VAT.

Since the VAT is normally exempted for exports but applied to imports, it does act as a kind of protectionist tariff and yields a nominal bilateral trade advantage for the VAT user.

Those who make this argument, however, forget that a non-VAT Japan ran the largest trade surpluses in world history and that U.S. exports have been rising for the past two years.

Moreover, the two major industrial powers that are growing fastest and creating the most jobs are the two that are the lowest-taxed—the U.S. and Japan. Although a VAT might temporarily "equalize" some bilateral trade terms, the economic damage would far exceed such ephemeral gain.

Finally, as this column was being written, the U.S. budget deficit was declining sharply, perhaps as much as \$20 billion this year, because of much faster revenue growth than forecast, over 9 percent through the first seven months of the fiscal year, suggesting a rise of some \$75 billion to \$80 billion in revenues in FY89, to be followed by an additional \$85 billion in FY90.

The last thing we need now is to check this natural economic growth with unnatural and unneeded new taxes—like the VAT. **■**

Congressional Alert

Here, in brief, are important legislative issues along with suggestions from *Nation's Business* on what you should tell members of Congress about them. Addresses: U.S. Senate, Washington, D.C. 20510 and U.S. House of Representatives, Washington, D.C. 20515.

Pension-Asset Reversions



PHOTO: ©JOE DITLAND—UNIPIC

Bills that would threaten the voluntary pension system have been introduced in the Senate and the House. The measures—S. 685, sponsored by Sen. Howard Metzenbaum, D-Ohio, and H.R. 1661, sponsored by Rep. William Clay, D-Mo.—would restrict an employer's ability to recover excess assets from a terminated pension plan.

The bills would require that assets be shared with employees and retirees even after all accrued benefit obligations have been satisfied.

An employer who establishes a replacement plan equivalent to the terminated plan would be required to transfer to the new plan a "cushion" of 125 percent of projected, not accrued, benefit liabilities. The cushion would have to be 135 percent if the replacement plan is a less generous defined-benefit plan

or a defined-contribution plan. In all cases, a cost-of-living increase must be provided for retirees.

The employer could retain any remaining assets. However, after cushions and cost-of-living increases are funded, nothing might be left for employers. An employer who does not provide a replacement plan would be barred automatically from recovering anything. Thus, employers who have borne the full investment risk associated with their plans would be entitled to only a portion—if that—of the fruits of generous funding and prudent investment.

Contact your representative and senators to urge them to oppose H.R. 1661 and S. 685.

Balanced-Budget Amendment



ILLUSTRATION: MARY CERRONE

With the federal government in its 20th year of running large fiscal deficits, Rep. Charlie Stenholm, D-Texas, has introduced H.J. Res. 268, a balanced-budget amendment to the Constitution. The bipartisan bill would require the president to propose and Congress to adopt a balanced budget unless three-fifths of the entire membership of both houses agree in a recorded vote to allow a deficit. The proposal also would require a constitutional majority, that is, a majority of the entire membership of both houses, to raise taxes.

Sens. Phil Gramm, R-Texas, and Robert Dole, R-Kan., have introduced con-

stitutional amendments—S.J. Res. 30 and S.J. Res. 2, respectively—that would require Congress to balance the budget. The bills also would require the consent in a recorded vote of three-fifths of the entire membership of both houses in order for expenditures to exceed revenues in any fiscal year.

In addition, they would prohibit revenue from growing at a faster rate than the gross national product.

Contact your representative and senators to urge them to support a balanced-budget amendment with a strong tax-limitation provision.

Health-Risk Notification



PHOTO: ©PETER GARFIELD—FOCUS INC.

Legislation has been introduced by Sen. Howard Metzenbaum, D-Ohio, to establish within the Department of Health and Human Services a Risk Assessment Board that would notify current and former workers individually of the risks of disease that might be associated with their exposure to workplace hazards.

Current employees receiving such notification would be entitled to employer-paid medical screening for early detection of disease symptoms, and they would be entitled to transfer or removal from their present jobs if medi-

cally necessary.

Metzenbaum's bill, S. 582, ignores several programs already in place that address worker notification of occupational hazards. One such program is the Occupational Safety and Health Administration's Hazard Communication Standard, which requires employers to train and inform workers regarding hazards in the workplace.

Urge your senators to oppose legislation that would duplicate OSHA's extensive hazard-notification requirements.

Editorial

Section 301 of U.S. trade law should be implemented in a way that achieves its ultimate goal—removing unfair restrictions.

Let's Keep Super 301 On The Right Course

Section 301 of U.S. trade law was aimed at eliminating barriers that foreign countries have erected to keep specific American products and services out of their markets.

That very specificity became a problem, however. The executive branch often found itself bogged down in detailed, industry-by-industry negotiations that did not extend to the broad protectionist policies that those nations employed.

The sector-by-sector approach often resulted in one set of barriers being replaced by another. And, in any event, the American government did not have enough negotiators to pursue every instance of unfair practices designed to work against exports from this country.

The answer to that serious problem was "Super 301." This provision in the historic 1988 Trade Act is aimed at generic or systemic trade practices that other countries use against U.S. products and services on a broad basis, as opposed to their targeting individual products and services.

The goal of Super 301 is breaking the entire web of impediments to American goods, not just fighting for entry for a few.

Under Super 301, the U.S. special trade representative must seek elimination of trade barriers on a country-by-country basis. The process begins with an identification and investigation of foreign-trade practices in countries that have significant restrictions on entry of U.S. products.

The countries and the practices to be covered in a Super 301 investigation are chosen on the basis of standards established in the trade law. Among the factors that can put a country in the priority class are the number and pervasiveness of its unfair trade practices and the level of U.S. exports that could be expected if any existing trade agreements were fully implemented.

Factors identifying priority trade practices are the competitive position and export potential for U.S. goods and



PHOTO © PAUL PETERSON

Trade Representative Carla A. Hills: "We intend to use [Super 301] in a constructive way."

services if those practices were eliminated, and the implication of such practices for foreign-government procurement from U.S. exporters.

The determination of priority countries and practices is followed by negotiations with those countries to obtain their agreement to eliminate the challenged practices over three years. Progress toward a solution must begin, however, in the first year. If there is no agreement, the U.S. can offset or eliminate the unfair trade practices through retaliation that could include 100 percent tariffs on an offending country's exports to the U.S.

The first official action under Super

301 was taken recently by President Bush. Japan, Brazil, and India were labeled as unfair traders.

But another highly significant aspect of that announcement was the lack of another name on that list. South Korea avoided inclusion by agreeing to steps that will substantially increase U.S. trade and investment in that country.

That outcome was exactly what Super 301 was designed to do.

The U.S. Chamber of Commerce, which had originally recommended the listing of South Korea along with the three countries that were on the final version, announced its support for the decision not to name South Korea.

That country's agreement to take steps to avoid being named "demonstrates the efficacy of the Super 301 process in opening foreign markets," says William T. Archey, vice president-international of the U.S. Chamber.

While the administration deserves overall endorsement for its first Super 301 action, there is nevertheless a basis for some concern about the nature of the follow-up steps. Complaints that the U.S. Chamber and others had filed against various countries cited the type of rigid, structural trade barriers that 301 was designed to attack, but those policies were not cited in the administration's announcement.

U.S. Trade Representative Carla A. Hills commented in making that announcement on behalf of President Bush: "This exercise isn't intended to be offensive. It's to carry out the law, and we intend to use it in a constructive way."

As the administration's principal trade official, she deserves full support for efforts to implement Section 301 in a way that achieves its ultimate goal—removing unfair restrictions that other countries place on U.S. exports.

If the law is to work as intended, those systemic problems cannot be ignored in the forthcoming negotiations.

That trade law section was enacted to show that this country was determined to get beyond superficial disputes over individual products and services and address a country's broader national policies of trade restriction.

Now that the section has been put into effect, U.S. trade officials should keep it on the course its framers set. ■



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